

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 Plaintiff, Docket No.:
6 versus 17 CR 434 (ARR)

7 JOSE MIGUEL MELENDEZ-ROJAS, et al., U.S. Courthouse
8 Defendant. 225 Cadman Plaza East
9 -----x Brooklyn, NY 11201

10 March 13, 2020
11 9:30 a.m.

12 Transcript of Criminal Cause for Trial

13 Before: HONORABLE ALLYNE R. ROSS,
14 District Court Senior Judge
15 (and a jury.)

16 APPEARANCES

17 For the Government: RICHARD P. DONOGHUE, ESQ.
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19 Eastern District of New York
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21 Brooklyn, New York 11201
22 BY: ERIN ARGO, ESQ.,
23 TANYA HAJJAR, ESQ.,
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25 Assistant U.S. Attorneys

For J.M. Melendez-Rojas: SUSAN KELLMAN, ESQ.

For J.O. Melendez-Rojas: MITCHELL GOLUB, ESQ.

For R. Melendez-Rojas: THOMAS DUNN, ESQ.

For F. Melendez-Perez: MICHAEL GOLD, ESQ.

For A. Romero-Melendez: MICHAEL O. HUESTON, ESQ.
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MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Melendez-Rojas, et al.

1 (In open court.)

2 (Defendants present.)

3 (Through the interpreter.)

4 THE COURT: Mr. Gold, you have the microphone, right?

5 MR. GOLD: I'm sorry.

6 THE COURT: You have the microphone?

7 MR. GOLD: Oh, no, I don't.

8 (Pause.)

9 THE CLERK: All rise.

10 (Jury enters.)

11 THE COURT: Please be seated. Mr. Gold.

12 MR. GOLD: Thank you, Your Honor.

13 Good morning. It's been a long two weeks, I know; and
14 you guys have been terrific coming. We all thank you. Let me
15 just join in.

16 I know the temptation is to go to sleep. It certainly
17 is mine. But obviously there is a lot at stake here for the
18 government, for the defendants certainly. So even though I'm
19 going to repeat some things -- I will try not to, as much as I
20 can -- that have already been said by the other three defense
21 lawyers, and for Ms. Argo too for that matter, but it's going
22 to happen.

23 And if I can maybe entice you a little bit to pay even
24 extra attention, let me throw this in. I guarantee you that by
25 the time I sit down the entire underpinning and theory of the

Summation - Gold

1 government's case against Francisco Melendez-Perez will be
2 obliterated. Teaser. So stick with me, please.

3 You have heard about the presumption of innocence and
4 the burden of proof, and it all always rests behind me at the
5 government table; and that's the way it should be. So if I'm
6 wrong about what I just said, which I don't think I am, if you
7 will make that decision and if I am, that still doesn't mean
8 you convict. That still doesn't change the dynamic of who has
9 got to prove what. I don't have to prove anything. We didn't
10 call witnesses. We didn't even have to question witnesses,
11 which I'm sure you wish we hadn't in some regards.

12 But that's the law. The burden of proof rests
13 exclusively and solely at the government table. But again, by
14 the time I sit down, I guarantee you, the theory of the
15 government's case will be obliterated.

16 There is one thing Ms. Argo said at the very
17 beginning. I said it in my openings, as I recall, and,
18 frankly, I couldn't agree more. The women that testified here
19 before you led lives -- whether by force, by choice, or by
20 circumstance, as life often gets in the way -- it was horrific.
21 There aren't -- at least I don't have a thesaurus in front of
22 me, and, if I did, it wouldn't have enough words to describe
23 the horror of their lives.

24 But you can't let their misery become your vengeance.
25 That's not your job. And it's not going to make their lives

Summation - Gold

1 any better. Their stories are compelling, they are tragic; but
2 compelling doesn't equal credible, and tragic isn't
3 transparent. That's what you need to focus on when you are
4 watching -- rather, now when you are considering what you saw
5 and what you heard from that witness stand from each and every
6 one of the witnesses.

7 So there is the conundrum: How do you set aside your
8 revulsion at what you heard and follow the law? How do you
9 turn off your heart and listen to your head? It's a question
10 each of you must ask yourself. I don't have an answer. But
11 you must find that answer because not only did you swear to it
12 in your oath, not only did everybody in this courtroom rely
13 upon that oath and that promise, you owe it to the generations
14 before us who fought for the right of a fair trial, fought for
15 your ability to sit here and died for your ability to sit here
16 and review this and so many other cases.

17 Let it be your legacy that on this day, 12 strangers
18 came together and without fear or prejudice, bias or sympathy
19 towards none, you delivered a fair and proper verdict based on
20 the evidence and just the evidence.

21 We have all heard and read about people getting off on
22 technicalities. Oh, this guy got off on a technicality, and
23 the TV goes ballistic and newspapers sell headlines and sell
24 their papers on headlines. It always sounds shocking. How
25 could that happen? How could that guy get off?

Summation - Gold

1 In this building there are no technicalities. There
2 is the law. In this building no one gets off with something.
3 It's the constitution. It guarantees us opportunity and
4 fairness and the right for a female judge to preside over a
5 case prosecuted by three women Assistant United States
6 attorneys against foreign nationals represented by black and
7 white men and women defense attorneys. That's not a
8 technicality. That is the fabric of our society. It's what
9 makes us distinct and unique.

10 And it's all predicated on you, and it falls apart
11 without you. It's rough. I tell you, I wouldn't want to
12 switch seats with you. It ain't easy. I get it. Do your job.
13 This is what you have to do. I'm begging you.

14 Listen to your heart, but then set it aside. Say,
15 okay, I get it. This is horrible. Now, what have they proved?
16 What are the elements? What has the government established
17 beyond a reasonable doubt? And then and only then do you reach
18 your verdict.

19 Now, you heard my some of my colleagues spend an awful
20 lot of time talking about Delia and my cross-examination of her
21 and the hundred whatever times it was she answered that she
22 couldn't remember one of my questions and the pictures that I
23 showed her and all the questions I asked on that. I get it.

24 I'm trying not to repeat everything that was said, but
25 I said to you in my opening that Delia was the primary witness

Summation - Gold

1 against my client. I was wrong. As the evidence has shown, I
2 learned too, she is the sole witness against him. And I will
3 go through each and every one of the other ones to make exactly
4 that point. But the centrality of her testimony against my
5 client, against Francisco, requires me to delve into the
6 absolute depths of her testimony.

7 So let's start by looking at what the other witnesses,
8 the other women who testified, said about Francisco and see how
9 they add or not to any of the specific charges that have been
10 brought against him.

11 Diana, one of the last witnesses that testified. She
12 never even mentioned his name. She never mentioned his name.
13 That's fact. So, obviously she adds nothing. There is nothing
14 to weigh, nothing to argue.

15 Daisy, the very first witness in the case -- I think
16 she was the first witness. She said very truly nothing about
17 Francisco, but let me just go through her briefly. I know some
18 of my colleagues did as well. But let me just, if I can,
19 briefly run through it, because it's really emblematic of some
20 of the patterns that developed during the course of this trial.
21 It's kind of representative of it.

22 You know, we have all seen movies, TV shows with, you
23 know, in the very beginning, under the title, "Based on a true
24 story." Then it proceeds to make up 90 percent of it, to
25 sensationalize and make it contemptible for you, the audience,

Summation - Gold

1 but it's based upon a true story and they just kind of
2 embellish from there. I submit to you, in large degree, that's
3 what happened here.

4 The true story is that these women were prostitutes.
5 The true story is that they lead horrific lives. It's up to
6 you to separate the made-for-TV part from the true story part.

7 Let's just go through Daisy as an example of how those
8 two were melded together, and initially it sounds good. It
9 sounds like it was all based on the true story, but, when you
10 break it down a little bit, all of a sudden you begin to see
11 the made-for-TV part.

12 So what does she say? She says she is very close with
13 her mother. I think she said she had never been out of
14 whatever town she had lived in. Very close with her mother.
15 Made that point, I believe, several times. Led a sheltered
16 life before she met Fabian, obviously who is not here. And
17 after a very brief courtship, she moves in with him and,
18 according to her, immediately refuses to allow her to speak
19 with her mother, separates her, and prevents her from
20 contacting her mother, with whom she has lived her whole life,
21 with whom she is extraordinarily close, and with whom -- you
22 would imagine -- she would need to say, here I am, I'm okay,
23 don't worry about me.

24 But no. Instead, after not being permitted to see or
25 speak with her mother, she is asked to go to America with

Summation - Gold

1 Fabian and, of course, she says yes. Never tells her mother.
2 Leaving the country for the first time. She never left her
3 town before, and now she is leaving her country and she never
4 tells -- never tells her mother.

5 They get rebuffed at the border, comes back; and, all
6 of a sudden, he says, okay, we are out of money, you have to
7 work as a prostitute to get money. She refuses. He hits her,
8 and she agrees to do it for a week for them to raise sufficient
9 money to eat and leave. Of course, at the end of the week,
10 what happens? She has to continue working and does so for the
11 next year.

12 I asked her, What caused you to continue to work? Did
13 you suffer any further beatings or anything?

14 No, I only saw him two more times over the next year.

15 Why do you continue working as a prostitute if you
16 didn't even see this man? What compels you at this point,
17 since you obviously didn't want to do this, why did you stick
18 to it for a year?

19 And the basic answer she gave was that he threatened
20 to tell her mother -- I believe Ms. Argo referenced this -- and
21 she was ashamed. Again, on the face of it, okay, I get that.

22 But think about that for a second. Think about your
23 child being the victim of a monster who forces you to be a
24 prostitute and who comes to you and tells you, ma, dad, this is
25 what this person made me do. Is the mother going to, or the

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1 father, Oh, ooh ooh, you are a piece of dirt? Or is that
2 person going to say, Oh, my God, you poor child. How did this
3 happen to you? Let's go to the police. What do we have to do
4 to track this person down? No. She is too ashamed to tell;
5 but, again, I get that as an initial reaction.

6 But the next step is, Wait a second. I didn't do
7 anything wrong. This guy did something wrong, not me. My
8 mother is going to forgive me, if there is anything to forgive.
9 She will accept me if there is anything to accept. It's her
10 daughter. Of course she will embrace her. Of course she will
11 tell her, My God, you poor child. How could such a thing
12 happen to my baby?

13 But no, she is too ashamed to have her mother find out
14 that she was acting as a prostitute. So what does she do? She
15 acts as a prostitute for the next year.

16 Too ashamed to admit she was a prostitute and her
17 solution is to be a prostitute. It just -- it makes no sense.

18 So what happens after that? Being a prostitute for a
19 year, again, miserable against her will, et cetera, et cetera,
20 having not seen Fabian for this year or thereabouts -- and,
21 again, I'm speaking.

22 Obviously you can go back and check any of the facts,
23 my dates. If it was nine months, whatever it is, obviously,
24 check it out. Whatever the record is it is. If I'm wrong, I'm
25 wrong. I don't think so, but feel free to check it out.

Summation - Gold

1 So after a year of being a prostitute against her
2 will, what? She decides, as any logical person would, I'm
3 going to get pregnant by this guy. Where did that come from?
4 What kind of a -- how does that fit?

5 We haven't gotten to the good part yet. This isn't
6 part of the teaser. Okay.

7 But how does this fit with the concept of I'm a
8 victim, I'm forced, this is terrible, this is what he did to
9 me? I'm going to get pregnant, try to go to America, it
10 doesn't work, get sent back, and she is forced to have an
11 abortion. You heard the gruesome testimony on that.

12 Again, Francisco had nothing to do with any of this.
13 The only reason I'm talking about it, even though she adds
14 nothing to the case as to Francisco, is, again, the mind-set
15 and the pattern of testimony that you have to learn to
16 separate -- what is it? -- the weed from the chaff. That's
17 what this is about. Okay.

18 What she is testifying to, it just doesn't fit with
19 logic, with common sense, with how human beings react under
20 circumstances that they are confronted with. So she comes
21 back, she is forced to have an abortion. Horrible experience.
22 She is miserable. It destroyed her.

23 So what happens next? He asks her to go to America
24 again; and, she says sure, why not. How does that fit? How
25 does that make you a victim? Forced prostitution for a year,

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1 when the guy is nowhere to be found, gets pregnant by the same
2 guy, forced to have an abortion. Okay. I'm going to be good
3 now, come with me to America. Absolutely. Of course I believe
4 you. When do we go?

5 And does it change the horror of her life? Did those
6 things actually happen? Was she forced to work a year in
7 prostitution? Did she have a forced abortion by this man?
8 Yeah, probably.

9 But there obviously is something else going on there.
10 There obviously is more, and until you can understand what the
11 more is, you cannot accept that as a complete story. You
12 cannot take it at face value, because it's not. It makes no
13 sense, and it's emblematic of so much of what you heard.

14 Where the fundamental story of these women's lives is
15 true, it's horrible; but it doesn't fit the package of criminal
16 charges that have been brought to bear against Francisco, and
17 that's what you are here to decide, not whether you like him
18 not whether he is a good guy, not whether this is someone you
19 want your daughter, your son, or you, or whomever, to date or
20 to have anything to do with. No.

21 It's did he commit these specific charges as outlined
22 by the government. They had it on that PowerPoint, and, you
23 know, it was all neatly categorized. That's what you have got
24 to do.

25 What I'm suggesting to you is that the totality of the

Summation - Gold

1 evidence, as compared to reality and what a normal, everyday,
2 common person would do in reaction to those circumstances,
3 doesn't fit.

4 So next we have -- oh. The common theme -- and this
5 is something you heard a million times -- where when she gets
6 here and is told you have got to be a prostitute and if you go
7 to the police, don't even think about going to the police
8 because they are not going to believe you. So what does she
9 do? Of course she believes him. She believes that if she goes
10 to the police, for which she had God knows how many
11 opportunities, if she goes to the police they won't believe
12 her. Why? Well, because this fine, upstanding chap who has
13 raped her and forced her to have abortions and lied to her and
14 made her be a prostitute and is just and all around good guy,
15 he told her. They are not going to believe you.

16 So, of course, why bother? Why would you do that? It
17 sounds, when we first hear it, yeah, okay, he is threatening.
18 He is going to tell my mother if I don't keep working. Oh, my
19 God, I don't want my mother find out. Well, yeah. You don't
20 want your mother to find out. Who the hell wants their mother
21 to find out you are living your life as a prostitute or any
22 other criminal activity for the last however many period of
23 time.

24 But if you are a victim, your mother is the first
25 person you want to know. She is the first person you want to

Summation - Gold

1 know, so she can hug you. So she can tell you, it's okay, we
2 will get through this, and we are going to get that son of a
3 gun. Mark my words, we will get him. But no. She believes
4 Mr. Good Guy and doesn't go to the cops.

5 What about Maria? I think she came after Daisy.
6 Again, I'm not up to the good part yet.

7 She testified that she introduced Delia to Francisco.
8 And she continued to have her relationship -- as, you know,
9 Mr. Golub went over, and I'm not getting on that; no interest
10 in going over all that. But as to Francisco, what does Maria
11 add as to alien smuggling, sex trafficking? Because he is
12 charged with smuggling her in and with sex trafficking her.

13 What does she say? She never spoke to him about
14 coming to the country illegally. She didn't find out that
15 Francisco was even going to be crossing at the same time she
16 did, until they all arrived at the same time at the same place
17 in the same group. That, like Francisco, she took instructions
18 from this Guadalupe, who was, I guess, orchestrating the show
19 and telling everyone what they had to say and what they had to
20 do.

21 Francisco was no more or no less of a passenger and as
22 a co-traveler as Delia was, as Maria was. And, you know, she
23 said so. She never talked to him about it. He never
24 threatened her to go, he never forced her to go, he never
25 tricked her to go, he never promised her anything to go.

Summation - Gold

1 Nothing. Nothing.

2 And once she got here, again, he is charged with sex
3 trafficking her. Once she got here, she told you, I never
4 spoke to him about prostitution, he never made my commit
5 prostitution, I never gave him money, he never gave me
6 instructions. Nothing. Absolutely nothing. Go back to the
7 testimony. Just look at my cross. It will take you five
8 minutes. So she adds nothing to that charge.

9 She did say there was one time -- I believe it was
10 her. She said there was one time she saw Francisco and Delia,
11 who she said was a couple. They were boyfriend and girlfriend,
12 no question in her mind about that.

13 And she recalls seeing one time where he had hit her.
14 I asked her if she remembered Delia hitting Francisco, and she
15 said no. Okay. That's fair. That doesn't mean that whatever
16 that incident was -- and I'm not going to dispute it -- he hit
17 her once. It has nothing to do -- it doesn't make it have
18 anything to do with sex trafficking, and it certainly makes --
19 it has absolutely nothing to do with Maria's sex trafficking as
20 to Francisco.

21 Because, again, that's, you know, I think I said it at
22 the beginning. If I didn't, I should have. There are five
23 defendants that are here, and obviously you are rendering a
24 verdict, and we heard testimony against everybody during the
25 course of the two weeks; but you have got five separate trials.

Summation - Gold

1 You have got take that evidence that you have heard and not
2 just, well, oh, yeah, you know, as Ms. Argo did -- believe me,
3 she was not doing anything wrong. I have nothing but the
4 highest regard for the people behind me. So I'm not suggesting
5 there is any, you know, sort of nefarious anything going on,
6 because there wasn't.

7 But many times she said, and they would have meetings
8 and they would discuss who has the youngest girl working for
9 them, and they and they and they. And you hear that, and you
10 figure, okay, it's got to be everybody. Right? But then she
11 showed you the testimony, which she wasn't going to
12 misrepresent anything. She showed you the testimony.

13 All of those "theys," all these park meetings, all of
14 these business meetings, all of these whose got the youngest
15 girl meetings, was Francisco at any of them? When it was
16 described, who was there? Well, this one was there, this one
17 was there, that one was there, that one was there. If you look
18 at any one of the transcripts she showed you yesterday, he
19 wasn't there.

20 So, bear that in mind when you are thinking of this as
21 five separate trials. You can conclude that Francisco is
22 guilty as to count whatever and Osvaldo is not guilty. You can
23 conclude that Jose Miguel is guilty of count whatever and
24 Miguel -- and Francisco is not guilty.

25 Whatever you decide the evidence supports against each

Summation - Gold

1 of them individually is what you have got to do. There is no
2 they. There is no they. There is him, and has the government
3 satisfied the burden of proof against him?

4 Now, Fabiola was discussed by Mr. Dunn -- and again,
5 I'm not here to repeat everything that was said, but even,
6 again, as to her, she is told after she has just been tricked
7 into coming here by what she thought was her lover, you can't
8 go to the police because they are not going to believe you.
9 Okay. So she doesn't go to the police.

10 Just like Daisy before her, just like Delia, and just
11 like all of them. You're fundamentally kidnapped and tortured
12 and instead of going to what any normal person under the
13 circumstances would want, would be to go to the police, you
14 believe them, your kidnapper and your torturer and your rapist.
15 You believe them when they tell you, no, they are not going to
16 believe you so don't go.

17 But what does she say about Francisco? Well, she said
18 Delia was her -- was his partner, his life partner. We are
19 close to what I'm teasing about, but not yet. Remember that
20 part. Life partner. Not her keeper, not her evil slave
21 driver. Her partner.

22 Francisco had nothing to do with her in Mexico.
23 Nothing. Took no money, gave no instructions. But here, as to
24 Francisco, here is where her testimony gets interesting; and,
25 before I say that, I just want to go back to one thing that I

Summation - Gold

1 forgot to say about Maria. I think the sole testimony and the
2 sole argument that Ms. Argo made about Francisco's complicity
3 and guilt in connection with Maria, was that while she was at
4 the house -- and forgive me if I have the wrong person, but I
5 think I don't -- but when she was at the house he watched over
6 her.

7 Now, I have no idea what that means, but that was the
8 testimony, that he watched over her. Does that mean he made
9 sure she had enough to eat, that she had clothes, that -- I
10 have no idea what it means; but it certainly doesn't mean that
11 he enabled, forced, encouraged, induced her to commit any crime
12 from illegally crossing the border to committing prostitution.

13 Let me get back to Fabiola. She lived with Delia for
14 about two years, as I recall. Delia described her as her
15 friend. Remember that? She said that Delia -- sorry --
16 Fabiola and Veronica were her friends. I think Ms. Argo showed
17 you that transcript yesterday. That's fine.

18 What she said -- and here is where it gets a little
19 interesting, as to, certainly as to Francisco -- is that a
20 month before she finally left, which would have been in April
21 of 2014. So a month before then -- figure somewhere in March,
22 maybe February -- one morning Delia got up and left. This is
23 what Fabiola told you. She just got up and said that's it, I'm
24 out of here, and she left; and she told you at the end of the
25 day, she came back, changed her mind.

Summation - Gold

1 Well, was it a lover's quarrel? Was it -- I have no
2 idea. What we do know, that a month before she finally left
3 Delia had done the same thing and voluntarily returned. When I
4 asked Delia about that -- among the 130-whatever it was times
5 when she couldn't remember -- and I asked her, before you
6 finally left, like Fabiola said, did you leave once before? I
7 don't remember. Did Francisco beat the living daylights out of
8 you for not working that day? Because we have all heard so
9 many times that even on her birthday she had to work.

10 Here it is. She skipped a day, that's for sure, at
11 least one shift. Was there testimony from Fabiola that
12 Francisco went ballistic, that he was beating on her? Did
13 Delia say anything like that? No. She left. They obviously
14 fought about something, she calmed down, and came back.

15 Why she didn't admit that, that's for you to
16 determine. I suggest to you she didn't admit to it because it
17 shows exactly what the truth was, that at any time from October
18 of 2010 until April of 2014 she could have walked out whenever
19 she wanted, and she chose not to.

20 And to admit that she had done it once was to admit
21 she could have done it any time she wanted to; and that doesn't
22 fit the narrative. That doesn't fit what you are being asked
23 to believe.

24 Now, what about Veronica? She testified, once again,
25 Francisco had nothing to do with her coming to America.

Summation - Gold

1 Hang in there, my friend. I'm doing the best I can.

2 She had nothing do with him coming to America.

3 Nothing. I think it was -- I forgot the year -- 2007 or
4 something like that. Francisco would have been 13. So
5 obviously he had nothing to do with this. Never instructed her
6 about anything, never took money from her, never threatened
7 her, never hit her.

8 But what does she add to the value -- what's the value
9 of her testimony vis-a-vis Francisco? And again, I'm looking
10 at these witnesses solely through the eyes of how do they
11 support, if at all, the charges that the government is asking
12 you to believe beyond a reasonable doubt that they have proven?

13 So that's why I'm going over this as to witnesses who
14 obviously had nothing to do with Francisco. The fact that they
15 had nothing to do with Francisco is important. You are being
16 asked to convict him, and the testimony that says we have
17 nothing to do with him is at least as important as the
18 testimony that says he is the man. You can't listen with one
19 ear and not the other.

20 What does Delia -- what does Veronica say about Delia
21 that really sheds some light on this case? Well, first of all,
22 she didn't know her name was Delia. Remember that? She called
23 her Katrina. Yeah, she did. Look it up. She never knew her
24 name was Delia. This is somebody who Delia said was her
25 friend. Why in God's name does she tell her friend a phoney

Summation - Gold

1 name?

2 Instead of saying, I'm 14 years old, get me the hell
3 out of here, do whatever you can, please, help me, my friend.
4 No. I'm Katrina, I'm a grown up hooker too. Look up the
5 testimony, Katrina. She never used her true name. Never.

6 If they were co-conspirators in this massive
7 prostitution ring, why would she conceal her true name from
8 Veronica? I don't know. I have no answer for it. I can tell
9 you, it makes no darn sense. That's for sure.

10 I think she didn't tell her her real name is the same
11 reason why she didn't ask her for any help, that she didn't beg
12 her for assistance to get away, because she was doing exactly
13 what she chose to do and she didn't need help. Now, was it a
14 good choice? Was it a smart choice? Obviously not. But it
15 was hers nevertheless.

16 All right. We are getting to the good part. Just
17 before we do, so we have seen a lot of these women have a lot
18 in common, with them not going to the police, why, because they
19 believed these monstrous rapists and kidnappers and torturers
20 and -- fill in the blank at your pleasure, in description.
They chose to -- oh, no, we can't go to the police, Mr. Rapist
told me not a good idea. Okay.

23 What else do they have in common, after all the
24 threats, all the fear, all the atrocities, all the torture?
25 They finally each up and left. They all left, including Delia,

Summation - Gold

1 of course.

2 But there is one thing that Delia did that's different
3 when she left. When she left, she left with her computer, she
4 left with some clothes, but what else did she leave with? It's
5 in evidence. I forgot the numbers. Ms. Argo showed it to you
6 yesterday. It's her ledgers, her book of drivers, her book of
7 accounting.

8 Now, I ask asked her, when you left did you intend to
9 go to the police? No. Did you intend to keep working as a
10 prostitute? No.

11 You are running away for your life. Fabiola has just
12 told you, I'm giving you two minutes and then I'm calling one
13 of the boys to let him know that you ran away. What does she
14 do? She packs her drivers' books.

15 Now, there are only two reasons to do that. Either
16 she is going to continue to be a prostitute, which she says she
17 is not, or she was planning on going to the police. Which was
18 it? I don't know. But it's sure as heck an odd thing to walk
19 out when you are fleeing for your life to make sure you bring
20 anything.

21 All right. Here is where we are. Show time. She
22 came here with the clothes on her back and nothing more. She
23 did not come here with any thought or idea of being a
24 prostitute.

25 Francisco came here with her as her partner, as her

Summation - Gold

1 boyfriend, with no plan, thought, inducement, recruitment --
2 all those words -- for her to be a prostitute. How do we know
3 that? How do you know for sure?

4 This is one of those times now, folks. I'm out there.
5 Here is where the government's theory falls apart.

6 How do we know? Step one. Virtually from the very
7 first question to her about how and under what circumstances
8 she became a prostitute, she said she gets -- remember the
9 story -- she gets here, she thinks she is working in
10 restaurants, they are going to live happily ever after,
11 everything is going to be great. She is 14. She is a baby.
12 He is 16. He is a baby. They come here out of love.

13 Because, of course, love doesn't pay rent. Love
14 doesn't put food on the table or clothes on your back, but
15 that's how they came. And she gets here and what happens?
16 Within three days, she is working as a prostitute because
17 Francisco threatens her, tells her she's got no choice, and
18 threatens her.

19 And here is reason number one. She says he told me I
20 can't go to the police because if I do they will deport me.
21 Okay. Think about this. You are 14, you are in a foreign
22 country, you don't know anyone, you don't speak the language.
23 This man you thought was your lover is a monster, and he says
24 don't go to the police -- here is where that different little
25 wrinkle -- not because they are not going to believe you, but

Summation - Gold

1 they are going to deport you.

2 So when I'm finished, Ms. Hajjar is going to stand up
3 here at some point later in the day and make sure -- she is a
4 terrific lawyer -- if there is an answer, she is going to give
5 it to you. It's going to come from the record, but she is
6 going to have to come up with this answer, and make sure she
7 gives it to you.

8 Why is don't go to the police because they are going
9 to deport you a threat instead of salvation?

10 (Continued on the next page.)

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Summation - Gold

1 (In open court.)

2 MR. GOLD: That's exactly what she wants to happen.
3 Get me the hell out of here. Send me back. Police, this
4 monster threatened my family. Contact Mexican police to
5 protect them. Let me go back. I want -- where do I sign up?
6 Get me out of here tonight. That's not a threat. That's
7 salvation.

8 And when I asked her, "Did you want to be deported?"
9 No. So you'd rather say here, forcibly working as a prostitute
10 under threat of death to your family and yourself than go back
11 home? Number one, she's here doing what she wanted to do. She
12 came here to do what she wanted to do. She wanted to stay
13 here, working illegally because that's what she wanted to do.
14 So she did not want to be deported. Not a threat. Salvation.
15 And how do you know? This is a big one. Okay? How do you
16 know for sure -- for sure that three days after coming here,
17 she didn't become a prostitute.

18 And remember, the whole premise of the Government's
19 case is that Francisco -- and again, I'm not speaking of anyone
20 else. Everyone else has separate counsel. For the trial
21 against Francisco, they have got to prove -- and their theory
22 of the case is -- I told you from beginning to end, that while
23 in Mexico, the plan was to trick Delia, 14-year-old Delia, into
24 coming to the United States with promises of love, of making
25 money here, sending it back to buy land and a house, and for

Summation - Gold

1 them to come back two, three, four years later, whenever it was
2 going to be and live happily ever after.

3 But all of that was a lie because Francisco had it in
4 his head from the day he met her and invited her to his home,
5 from that very day, he had it in his head to trick her into
6 coming here. So three days after her arrival, she is working
7 double shifts as a prostitute, as a 14-year-old prostitute
8 against her will. That's the premise. All right? I'm not
9 telling you anything you haven't heard before. That's what
10 they're claiming.

11 Okay. So how do we know we know that that's not true?
12 We know as she said, no fancy cars. All the money that was
13 raised, shipped back to -- sent back to Mexico. You have seen
14 the houses. These aren't fancy houses. Everything went back
15 to Mexico. That's the premise of the Government's case.

16 So what did she say? She arrives in October, begins
17 working double shifts, working -- getting roughly \$250 a shift.
18 Okay. Mid-October 2010 to January first, 2011 is roughly ten
19 weeks -- and I may as well say the middle of October, if we've
20 got to pick an arbitrary time. Say it's the middle of October.
21 That's ten weeks. Okay? At \$250 a shift, seven days a week,
22 as she said she did. She said double shifts.

23 Let's go on the rough side for a minute. \$250 a day,
24 she's clearing. That's \$1,250 a week. I'm not doing this in
25 my head now. But it comes out to \$1,250 a week, which after

Summation - Gold

1 ten weeks, is \$12,500. Now if she's working double shifts, as
2 she claims she did, that's roughly \$25,000.

3 Can I get the Elmo, please?

4 Now, you were shown a series of charts.

5 (Exhibit published.)

6 MR. GOLD: Thank you.

7 A series of charts reflecting money that was sent back
8 from here to Mexico, and broke it down, a number of people to
9 whom it was sent. How many times, et cetera, et cetera. Okay?
10 They worked on these. Did a great job putting all of this
11 together, so you could see it in black and white. Went back to
12 2005.

13 Now, for example, in 2008, we have -- okay. There you
14 go. 2008, just look Veronica, who can't read or write. Said
15 she was just giving money to whoever she gave it to. Even she
16 was wire transferring in 2008.

17 If you flip the page, Fabiola, if you recall, said she
18 came in 2009 and she gave money to whomever she's testified,
19 and she also personally sent -- in this case -- \$2,750.

20 And in 2010, if you recall, Maria said she arrived at
21 the end of December. And even she, giving money to whomever
22 because she was working right away, as all of them are. They
23 get here. The work. Two days later, 20 minutes later, double
24 shift, misery, torture, pain threat. Am I right? That's what
25 each of them said.

Summation - Gold

1 (Ms. Argo confers with Mr. Gold.)

2 MR. GOLD: Okay. I'm sorry. I was showing unredacted
3 copies. I didn't mean to.

4 But the numbers that I'm saying are accurate, and the
5 fact that their names are on here are accurate. These people
6 did, in fact, send it back, as we said.

7 Now, in 2010 -- actually, I'm sorry. (Confers with
8 Ms. Argo.) It's 4-13-07. Thank you.

9 (Ms. Cistaro hands document to Mr. Gold.) Thank you.
10 I've got it. I have an unredacted copy. Sorry about that
11 before.

12 2010, okay? In 2010, we have got Fabiola, firmly
13 entrenched, wiring all this money. Got the other people who
14 are on the list. You have got Maria. Even Maria, who arrived,
15 as said before, at the end of December. They have got her
16 working. They have got her wiring. Immediately. Right?
17 Okay. Go to the end of the page to see how much Delia sent
18 that year.

19 Oh, let's see. (Peruses document.) Wait. That is
20 the end of the page. Where's Delia's name? Where's
21 Francisco's name? \$25,000, every penny, as Ms. Argo told us,
22 is going back to Mexico. Every penny to support the
23 conspiracy, to recruit more women to do whatever it's doing --
24 but it's going back to Mexico. Where's the \$25,000? Why if
25 she was working as a prostitute, if she was working for

Summation - Gold

1 Francisco, if she was working as part of a conspiracy, ask Ms.
2 Hajjar, where's the \$25,000? And why the heck didn't it go to
3 Mexico?

4 And I submit to you the answer is obvious. She wasn't
5 working at that time. She never sent money to Mexico because
6 she never made money for Mexico. It's the only logical
7 assumption because everybody else, you know, in all of the
8 charts and all of the connections and this one made nine
9 hundred calls and sent money 16,000 times. All that. Great.
10 Great. \$25,000, and we ain't talking chump change. Why isn't
11 it on the chart?

12 Ms. Hajjar is a terrific lawyer. If there's an
13 answer, she'll find it and she'll give it to you. Make sure
14 it's in the record. Make sure it makes sense. But before you
15 deliver a verdict that relies on Delia's testimony saying that
16 three days after she arrived here -- because Francisco and all
17 of his monstrous machinations had determined she was going --
18 I'm going to get her here, so she could work for me under
19 threat of death to her, to her 12-year-old sister. He's going
20 to force her to work, too. All these threats.

21 Before you believe that testimony, make sure Ms.
22 Hajjar answers that question. If that's true, okay. I accept
23 that testimony. I'm brought here -- she was brought here for
24 that purpose. She was brought here to send money back, to be a
25 money machine and be a piece of garbage and a piece of chattel

Summation - Gold

1 and all the other things that they said. And they put her to
2 work right away. Where's the money?

3 What I submit to you happened was as a 14 year old,
4 who knows nobody, who's illegal, who came here with her
5 16-year-old baby boyfriend and all of a sudden, the reality
6 sets in. They don't have a dime. They've got to pay rent.

7 She's there. She's seeing prostitutes coming and
8 going. She knows about prostitution existing in Mexico. It's
9 legal there in her hometown. The state runs a brothel, as you
10 recall me asking Daisy, the Zona Galactica in her home state.
11 Delia's state, Chiapas. So she knows about it. And what does
12 she do? This is what she decides to do.

13 And nothing is getting sent back. Nothing is being
14 forced. No one is threatening her for two and-a-half solid
15 months and perhaps longer or whatever. I don't know. But
16 certainly, for those first two and-a-half months she was here,
17 she was not working for Francisco, under any circumstance for
18 any reason. Getting deported is not a threat. It's salvation.
19 If you're part of a forced prostitution ring, you're sending
20 money back, day one, certainly \$25,000. Where is it?

21 Now, let's talk at the beginning. I won't get nuts
22 over it. But what did she say? What did Delia say about her
23 relationship with Francisco and her life, heart-wrenching --
24 and again, to May, this is the absolute truth. No question
25 about it. She's raped by her father, by her uncle. And I

Summation - Gold

1 forgot how old she said he was. It was horrible, no question
2 about it.

3 And then she meets Francisco, who promises to take
4 care of her. She thinks he's a good guy. And so she decides
5 to move in with him. Okay. To get -- and I think she said it,
6 to get away from this home life which was going to destroy her.
7 How could anyone be expected to live in that type of situation?
8 She -- in fact, she told you, she ran away and the police
9 brought her back. She ran away from her father and her uncle.

10 So then she meets Francisco. She moves in with him.
11 She thinks he's great. This is the love of her life with her.
12 What happens the very first night they're intimate? He rapes
13 her. He rapes her. Forced her to have anal sex. She still
14 remembers the blood on the sheets. It was painful she hated
15 it. He raped her.

16 (Ms. Cistaro removes document.) Thank you.

17 Her Savior raped her. So what does she do? Does she
18 cry out in the middle of the night, "Oh, my God. Another one."
19 Does she tell his mom, "Your son just raped me." Does she run
20 into the street, to neighbors, "Help me, help me, help me.
21 Someone call the police. Look what this animal did to me."
22 No. Nothing. Not a word. She continues to live there. She
23 works. I don't know what she said in the field or in house
24 cleaning -- Whatever she's doing, life was going on.
25 Everything is grand.

Summation - Gold

1 That's the made-for-TV part that's not true. The
2 based on the true story, this ain't. There is no way he rapes
3 her and then everything goes on and a month later or whatever
4 the heck it was, he says, "Let's go to America." Sure,
5 Mr. Rapist. Why the hell not? She runs away from her father,
6 she runs away from her uncle and she runs to America with that
7 animal. Does that makes sense? No, it does not.

8 When that happens, what do you do? You go to the
9 police. You ask for help. That is not a threat. That is your
10 salvation. And she does nothing.

11 According to her, the very foundation of their
12 relationship, which continues for the next three and-a-half
13 years, the very foundation of it, is rape. And that's just not
14 true. It makes no sense. No more so than she earned \$25,000 a
15 year in this giant conspiracy, that Francisco brought her into
16 and forced her to participate in, never saw a dime, that
17 Francisco never saw a dime.

18 In my opening, I asked you to keep in mind a simple
19 question when listening in particular to Delia, but I guess it
20 applies to everyone. Again, you have heard that prostitution
21 is legal in Mexico. You have heard how in Chiapas in
22 particular. You had this Zona Galactica. Diana worked there.

23 Why? My question to is you and my opening and my
24 question to you again, why? With all of those prostitutes to
25 choose from, with all the hundreds, thousands, I don't know

Summation - Gold

1 however many are working there legally, voluntarily, willfully,
2 why don't you go to one of them? I said, hey, you know what?
3 You're doing good here. You're making some nice bread. You
4 want to come to America? Then we'll clean up. Want to come?

5 They couldn't find anybody? He couldn't -- he
6 couldn't ask any of these women who are out there every day?
7 Instead, he's got a trick a 14 year old -- a 14 year old, and
8 he's 16. He's got to not only think to do it, he's got to
9 perfect it. He's got to execute the plan -- 16 years old,
10 mastermind? Yeah. Right.

11 Instead, he's got to go. He goes to a 14 year old
12 who's never done this before, never conceived of doing this
13 before, who is a homebody in the sense of never having left her
14 town before, I think she said. And you're going to sneak her
15 across the border. And when she gets there, you're going to
16 tell her, "Ha, ha, ha, ha, ha. Guess what? Now you're a
17 prostitute. Now I own you. You have no choice. You can't go
18 to the police. They'll deport you." Salvation. "But you
19 can't go. You're going to work for me. I'm going to kill your
20 family. I'm going to kill you. I'm going to kill anyone you
21 ever met."

22 Why run the risk that this 14 year old, as any 14 year
23 old, would freak out, and say, "I can't do this," and run and
24 scream, and fight and at every opportunity, puts him at risk.
25 Because if the thought ever occurred to her that the police

Summation - Gold

1 were her salvation, that these people are her salvation --
2 which they turned out to be in another way -- but if she had
3 thought for a minute to go to the police, what happens? Fran's
4 cooked. Francisco, it's over.

5 Why? Why not go to someone you know, who's going to
6 come with you, is on the same page? You're going to work
7 together. Isn't going to go to the police and say, I'm
8 threatening her. It's a business. Why take the chance with a
9 14 year old? Immaturity alone would cause her or could cause
10 her to ignore any threats that he might have given to get her
11 to work.

12 It doesn't fit. It sounds good. Oh, he tricked me
13 and oh, my God, I had to do all of this and it was horrible.
14 Good in a sense of superficially, it sounds believable. Think
15 about it. It's not. It doesn't make sense. No one would act
16 that way. Certainly, when you have the choice that apparently
17 Francisco had in Mexico of anyone of God knows how many people
18 who theoretically would have been willing to come.

19 And not only does he have to go through all the
20 trouble of executing this nefarious plan as a 16 year old, to
21 trick this 14 year old and seduce her and all of that. Now,
22 you also -- he also is going to have to live with her as man
23 and wife for the next three and-a-half years, having raped her,
24 having tricked her, having forced her into working seven days a
25 week, 18 hours a day, whatever it was she said.

Summation - Gold

1 Why go through that? Hey, Miss. Here's my plan.
2 What do you think? You want to come? Yeah. Sure. Why not.
3 America. Okay. No risk. No danger. He doesn't have to live
4 with her for three and-a-half years as man and wife, pretend to
5 be a couple. Presumably, I guess that's their theory. It
6 wasn't real. Look how much simpler life would be.

7 In fact, I submit to you that he loved her, that he
8 didn't live with her for three and-a-half years because he
9 tricked her into coming and working as a prostitute. He lived
10 with her for three and-a-half years because he loved her, as
11 she loved him.

12 And at a certain point, probably in 2011, sure as heck
13 wasn't three days after. It sure as heck wasn't in 2010. We
14 saw that. She became a prostitute. That's what she saw.
15 That's unfortunately how she thought she needed to make money.
16 And so she did.

17 She was a businesswoman, not a victim. This was a was
18 a choice, an incredibly bad one, but it was a choice.
19 Businesswoman. That's why she took the books when she left.
20 Why? You never know. May come in handy. You have two minutes
21 to get out. "Okay. Hold on. I just to have get the driver's
22 records." Seriously? Is that a victim or is that someone
23 who's smart. She's smart. She taught herself, what three --
24 two languages. She's no dummy.

25 And she takes those books because you never know.

Summation - Gold

1 They may come in handy. She intended to be a prostitute? I
2 don't know. She intended to go to the police? I don't know.
3 Kind of ace in the hole. It's a little -- I'll hold onto it.
4 You never know. And of course as you saw, she turned those
5 books and her story into a T visa and legal status, because she
6 used them to become a victim. She used them to claim Francisco
7 was her slave driver. She was smart. She pulled it off.

8 Now, I just want to touch on this briefly, just
9 because it's something you should think about and you'll decide
10 what you decide. Many people lie about their age for a variety
11 of reasons. It happens and normally means nothing. Who cares?
12 In this case, it does.

13 She claims to have been a minor and the Government has
14 to prove she was a minor when this happened. She gave two
15 false birthdates on immigration records, both of them showing
16 she was a minor, but false nevertheless. On her passport,
17 which -- oh, it's my passport. It's got my birthday. Of
18 course. It shows what her real birthday is.

19 What else does it show? A phony town -- not a phony
20 town. I take that back. The wrong place of her birth, which
21 she knew. Remember, she told you. In 2014, 11 days after she
22 left and all of a sudden, she's here illegally. She's applied
23 for this T visa and all of her troubles have gone away.

24 In connection with that, she told the authorities, you
25 know what? I said I was from this town, but it turns out I

Summation - Gold

1 really wasn't because my mother gave birth to me in our home,
2 but realized at some point later on, you had to have the name
3 of a town in the birth certificate in order to get school
4 records, whatever the explanation was. I'm sure it's true.
5 And so we put down Tecamachalco, I think it was, as her place
6 of birth when it wasn't. Okay. But she clarified that in her
7 application to the United States in 2014.

8 In 2018, she applies for a passport. And what does
9 the passport say? Tecamachalco. Wrong. Yeah. This is a big
10 deal? Do I care? No. But it shows you that what's on
11 official documents, of course you could believe. This is her
12 age. Everyone knows her age. Veronica sure didn't. She told
13 you, she didn't even know her birthday. But you could believe
14 Delia's because it says so on her passport, the same passport
15 that misrepresents where she was born.

16 So do you know her birthday? As you sit here, can you
17 really say for certain, yeah, I can trust that her birthday is
18 what is reflected on the passport? I don't think you can.
19 Obviously, that's up to you. But just bear in mind, the fact
20 that it on her passport which you would think should be enough.
21 I mean, who lies on their passport, right? Why would someone
22 lie on their passport for their date of birth? I don't know.
23 Why would they lie as to their place of birth? But lie, she
24 did.

25 Now, it's only natural that with the passage of time,

Summation - Gold

1 memories fade, things you might have remembered with total
2 clarity five years ago when you are reflecting back on that
3 same incident or time period five years later, hum, maybe it's
4 not as clear and you can't remember some things or you get some
5 things wrong. Human nature. Perfectly natural, makes perfect
6 sense. But there are some things that no matter how much time
7 has expired, you're going to remember, like you would think
8 your birthday being one of them.

9 I'm told it was 137 times, she couldn't recall. When
10 I asked her questions, 137 times.

11 Like when I asked if while she and Francisco were here
12 living as man and wife one Christmas, her parents went to visit
13 his parents, like one set of in-laws visiting another set of
14 in-laws. She couldn't remember. And I asked whether at one
15 point during this visit, her mother got sick and had to be
16 taken to the hospital. I don't remember.

17 And whether she told the agents these stories. I
18 don't remember. Did she tell -- remember telling the agent
19 that not only did she get sick and get operated on, but after
20 the operation, she went back to Francisco's parents and stayed
21 there while she recuperated? I don't remember. Seriously?
22 You don't remember your mother getting operated on?

23 I think that's something that when someone says they
24 don't recall, you've got to look twice and say, ah, no. That's
25 something you should recall. I'm sorry. Your mother who you

Summation - Gold

1 love? I mean no.

2 Or when I asked her if she remember telling the agents
3 that while Francisco was in Mexico from December of 2011 until
4 May of 2012, whether she told them she was only sending over
5 \$400 a week of her earnings back to Mexico, when he was
6 threatening her on a daily basis, you'll recall, and this is
7 when -- excuse me. She's talking about how he's threatened to
8 kidnap her 12-year-old sister and force her into his business
9 as well. She told the agents \$400. Do you remember that? No.

10 Or when she told the agents that despite all these
11 threats and all this fear, she turned off her phone so drivers
12 couldn't even call her. Do you remember telling the agents
13 that? No. Do you remember whether you celebrated Halloween or
14 New Years with Francisco? No. Do you remember telling the
15 agents? No.

16 You remember telling the Government you overheard a
17 conversation shortly before you left for good, where Francisco
18 said to somebody, "You know what? This isn't working out. I'm
19 sending her back home to her parents. I'm sending Delia back.
20 We're done." Do you recall telling the agents that? I don't
21 remember.

22 Do you recall telling the agents that, again, at some
23 point shortly before you left, you overheard a conversation in
24 the delivery car in which you and several other prostitutes
25 were sitting there, and somebody was talking about Carla,

Summation - Gold

1 another prostitute, telling the story where Carla told -- went
2 and told the police that her pimp was making her be a victim of
3 child sex trafficking. And what happened? She filled out some
4 forms. She got legal status here. And in fact, continued
5 being a prostitute. Do you remember telling the agents
6 anything like that? Uh, no.

7 And when I asked her if she recalled telling the
8 agents whether she spoke to some friend one evening after she
9 overheard Francisco saying he was sending her back, whether she
10 recalled telling a friend how upset she was by this and that
11 rather than wait for Francisco to send her back to Mexico, she
12 was going to leave. She needed to leave. She wanted to stay
13 here. No, I don't recall.

14 And when I asked her if Francisco confronted her about
15 that conversation with this friend the following day, and if
16 she told -- if she recalls telling the agents that she would --
17 that Francisco confronted her the following day. "What do you
18 mean? Where are you going? What's going on here?" She denies
19 it. They got into a huge argument and she hit him.

20 Do you recall telling the agents that shortly before
21 you left. No. And you recall that he didn't hit you back? He
22 didn't tell. He didn't threaten you, didn't do any of the
23 other things. He walked away and just didn't talk to you for
24 three days. No. I don't recall.

25 Do you remember telling the agents you ran away? Do

Summation - Gold

1 you remember telling Fabiola that Fabiola said that you ran
2 away a month or so before you finally went? No, I don't
3 remember that.

4 And when I asked if she remembered telling the agents
5 whether -- and you remember this -- Fabiola said, I'm giving
6 you two minutes and then I'm telling whomever that you left?
7 You remember telling the agents that 15 minutes after you left,
8 you received the text from Francisco in which he asked, "Why
9 did you leave, Love? Did you take the keys?" Remember telling
10 the agents that? No.

11 But she did remember taking his sneakers. You're
12 running for your life. You have got two minutes to escape
13 this -- this animal, this subhuman -- two minutes. You take
14 his sneakers. You take the books of your drivers. You take
15 your computer. Seriously? Everyone else just walked out.

16 I submit to you, ladies and gentlemen -- and actually,
17 I started to say this again, I said it before. I said again, I
18 think people behind me. And they did a great job putting
19 everything together. Not for one second do I think that they
20 told Delia or any other witness what to say, how to answer,
21 what to, you know, how to finesse something. No. They did
22 none of that. I don't believe that for a second. If they told
23 me that they did, I wouldn't believe it.

24 She's a smart cookie. She figures out on her own very
25 quickly and very easily. Okay. I left. And miraculously, 11

Summation - Gold

1 days after I left, after fighting with Francisco for three
2 and-a-half years about her documents and heard this threat. I
3 always asked him for my documents. I needed my documents.

4 Why? I don't know, but I would assume what they're
5 fighting about and where the theory of the Government's case as
6 to this is, this was his way of exercising control over her,
7 and if he's holding onto her documents, she's impotent, and
8 cannot function in any way that would legally permit her to do
9 anything to escape him. I guess that's the theory.

10 And so for three and-a-half years, they fight. They
11 argue. And she runs away and what happens? Eleven days later,
12 after meeting this total stranger who convinces her to go to
13 the police. She walks into the police, tells them her story,
14 and 11 days later is filing the T visa application, and
15 attached to the T visa application which claims she's a child
16 victim of prostitution and is entitled to legal status here.
17 So please, America, don't deport me. Let me stay.

18 Attached to that application -- wait for it -- her
19 birth certificate. Three and-a-half years, all my
20 documents, my birth certificate, I always ask him. Three
21 and-a-half years. Eleven days after she's gone. Boom, there
22 it is.

23 Now, I asked her where it came from. Oh, my mother
24 got a duplicate, in 11 years. Okay. That's one explanation,
25 that if it's true -- and I'm sure it certainly is capable of

Summation - Gold

1 being true. Why are you fighting for three and-a-half years
2 when at any given point in time, you walk in the Mexican
3 Consulate or wherever else, whatever her mother did and get
4 yourself a duplicate, and that's the end of it.

5 Big deal. People lose their birth certificates all
6 the time, their passports all the time, driver's license,
7 whatever. You lose it. You replace it. You get a duplicate.
8 No big deal.

9 Either that or it was exactly where she knew it was,
10 in the apartment. And when she so desperately ran out with two
11 minutes to escape, she took it with her and incorporated it in
12 her application.

13 I submit to you, ladies and gentlemen, after filing
14 the application, after coming here and being here under the
15 circumstances that she did, where she voluntarily chose to be a
16 prostitute, and then when she realizes that her relationship
17 with Francisco is ending, she's not going to get the house that
18 her -- going to get things he was asking her.

19 Did you remember telling the agents how you spoke with
20 Francisco's father back in Mexico and he promised you this
21 house for you and Francisco to live in after I guess he passed
22 away. No, I don't remember asking that.

23 And do you remember asking Francisco to buy the
24 adjacent land with the money that was being sent back from
25 America to Mexico, with that, can you buy some adjacent land

Summation - Gold

1 and build a house for my parents to live next to your parents
2 and presumably next to her and Francisco. Do you recall
3 telling me? No, I don't remember that.

4 (Continued on the next page.)

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Summation - Gold

1 (In open court.)

2 MR. GOLD: I think what happened here is clear. She
3 and her 16-year-old baby lover, came here. It didn't work out
4 and the three and a half years, he was walking away from her --
5 or sending -- even worse, he would send her back to Mexico.
6 She said, No, I am not doing that, and so she grabs the
7 material. She goes to the police. She makes up this story
8 about Francisco, because now he's her ticket -- he's her green
9 card. He's her get-out-of-jail-free card. And one time she
10 said that story, she was locked into it, because she walked in
11 here and she couldn't very well contradict anything she said to
12 the Mexican Consulate, to the U.S. Government or whatever it
13 was. And again, did the Government make a deal with her? Did
14 they ever promise her that they're not going to prosecute her
15 for her money laundering when she sent back money on her own?
16 Are they going to prosecute her for that -- or rather, do they
17 have an agreement for that? No. In her mind are they going to
18 prosecute her for illegally coming here? No.

19 She thought, Well, if I continue with this story and
20 say what I said before however many times, then I'm home free
21 because I've said it all those time before, nothing happened to
22 me. So if I continue saying it, nothing will happen to me
23 going forward. And what happened was on cross-examination for
24 137 times I charged that, and for 137 times she couldn't reply
25 because she told the agent these things. She knew she told the

Summation - Gold

1 agents these things. They're sitting there, she couldn't very
2 well deny it. But what she could do is say, I don't remember
3 as a shield against further inquiry. And these things, ladies
4 and gentlemen, I'm submitting to you every time she said, I
5 don't remember, what's tantamount to saying, it's true. And
6 I'm just not giving it up because it contradicts the position
7 I'm trying to advance.

8 Okay -- sorry.

9 You heard her say that from December 11th -- or I'm
10 sorry, December of 2011 until May of 2012, she spoke every day
11 with Francisco while he was in Mexico and threatened her, et
12 cetera, et cetera, and he's going to get her 12-year-old
13 sister, bearing in mind that among the many other things that
14 she denied remembering telling the agents, although I think
15 other witnesses said this, there were times drivers refused to
16 take her because she looked too young. But never the less,
17 which is money out of Francisco's pocket, right? Because if
18 she's giving him all of her money and drivers are refusing to
19 take her because she looks too young, that's money out of his
20 pocket, okay. And so what he threatens her with, as she says,
21 is that her younger sister, who presumably even looks even
22 younger than she does, he's going to turn into a prostitute,
23 too.

24 Now, I think on its face its makes no sense and I'm
25 not saying anything more about it.

Summation - Gold

1 But what I will say is this: These folks behind me
2 did a hell of a job. They put together all these documents.
3 You had all these arrows, all these charts going all different
4 ways showing who sent what to who and how much and when and all
5 of that. And if you remember, they couched all of the
6 questions to, I think it was Ms. Martinez, what's her name --
7 if I remember the name I will -- the woman who put together all
8 of these charts. And what she told us was that all of these --
9 that she got all of this evidence, subpoenaed documents from
10 the agents, and then she compiled all this based on that
11 information.

12 What they did, as they should and they did a great
13 job, they got every person that they believe was a party to
14 this conspiracy, was a party to this sex trafficking, they gave
15 every name to every Western Union and all the other places that
16 they said to trace any and every wire transfer of money that
17 any of those named people made, so this way you can track how
18 much each person sent, how much it totaled, it said who sent
19 what to who. It makes perfect sense and the remaining charts
20 to that effect. And they would frames the questions to
21 Ms. Martinez I believe her name was, over and over, and this --
22 the amount that -- this was sent in this year from this peer
23 person to this person was at least X amount. It was at a
24 minimum was Y amount of money.

25 God, I wish I could borrow that from you.

Summation - Gold

1 (Pause in proceedings.)

2 MR. GOLD: Okay. At least at minimum the suggestion
3 being -- and I'm not saying they did anything wrong -- but the
4 suggestion, though, being there's more out there and we just
5 couldn't find it. Okay. I accept that. Is there twice as
6 much? Is it -- did they miss a few out there? Yeah, probably.
7 But they spent years investigating giving the names, getting
8 the name, speaking to these witnesses, When did you send? What
9 name did you use? What date of birth did you use? Where did
10 you go? I mean, these people aren't stupid, okay? They did
11 their job and you saw it.

12 They didn't miss very much. So the numbers that are
13 here on those charts are the numbers that they can prove, and
14 that's it. And that's all you are to consider. No speculation
15 of -- Oh, there's more out there. You can't, because it's
16 unknowable. Anything is possible. But in your deliberations,
17 you've got to rely on those numbers. And so they were updated
18 yearly. Ms. Martinez said, Yeah, I'd regularly get more, more
19 information, more subpoenaed documents, more records.

20 Can I get the Elmo again, please.

21 Thank you.

22 And I would like to now show you what's I think is in
23 evidence as Government Exhibit 419-R. And this particular
24 document -- let me see if I can't get everything -- no. Okay.
25 This document, if you look at it, okay, these are the amounts

Summation - Gold

1 of money that after years of investigation they have traced to
2 Delia. Okay? And all the different people, and you heard her
3 mention these names: Isabel Rojas-Torres, Isabel Rojas -- Jose
4 Osvaldo Melendez-Perez -- Melendez-Rojas, Ma Ana Perez-Rojas,
5 Magdaleno Melendez-Rojas, Maribel Melendez-Rojas.

6 Did I miss any?

7 And at the end of the document it shows that her years
8 what they worked out, what they traced was \$18,000 that she
9 sent. And you heard the testimony that of the \$18,000, as is
10 reflected on the chart, \$7,310 of that 18 went to what they
11 described as other recipients. Other recipients, meaning
12 people having nothing to do with this case. Every day she's
13 threatened. Every day, You better give me all of your money.
14 Every day, I'm going to kill your family. Every day, I'm going
15 to steal your sister, and 40 percent of what she wired she sent
16 to God knows who. Who these people were, what their
17 relationships were to her, we don't know. But we know one
18 thing for damn sure, they had nothing to do with this case, 40
19 percent.

20 Okay. Now, if you look at some of these entries, and
21 you'll see of the Ma Ana Perez-Rojas a series of dates and
22 amounts, and the same thing for Magdaleno, going from 2011 to
23 2013. Okay? Now, you can compare this on your own, but what I
24 have done was taken those entries for December of 2011 when he
25 went to Mexico until May of 2000 -- oh, nope. Actually I'm

Summation - Gold

1 sorry -- yes, until May 12th of 2012 when he thereabouts
2 returned. Do you remember, she said he returned in May? These
3 are all the transfers that in all of the investigations --
4 oops, I'm sorry -- in all of the years that they worked on it,
5 this is the amount, this is what she sent.

6 And what does it show? It shows that for Ma Ana
7 Perez-Rojas for that six-month period, \$5,150; to Magdaleno
8 Melendez-Rojas, another 500; and to Maribel Melendez-Perez
9 another 40 for a total of \$5,690. Okay? 500, 600 -- or
10 \$5,690.

11 Now, remember I asked her, How much did you earn?
12 Didn't you tell the agents during this time period because you
13 weren't taking calls, you turned off your phone? You weren't
14 doing anything. You certainly weren't working seven days a
15 week anymore, which I think she actually did admit? Didn't you
16 tell them you were earning -- No, I don't remember that. Okay?
17 Again, I have to take numbers somewhere, and I took a couple.

18 Do you remember she said there were times she said she
19 earned as much as a thousand dollar a day? Out of a total of
20 \$5,690, if she earned a thousand dollars a day, that means
21 between December of 2011 and May 2012 she worked 5.69 days
22 total. Threatened every day, stealing your sister, killing
23 your family, I'm at your mother's house now, I could do
24 whatever I want, I'm a monster, remember me? At a thousand
25 dollar she worked 5.69 days.

Summation - Gold

1 At 500 a day -- oh, God, I hope I wrote this down --
2 well, you get the point. At 500 a day, it doubled. She worked
3 11 days, 12 days.

4 At 400 a day, as she told the agents, although she
5 didn't tell the agents because she didn't remember, at 400 a
6 day, she worked 14.225 days. And again, out of that 18,000, 40
7 percent of it, who knows who she decided to send it to? But it
8 wasn't anyone here. It had nothing to do with anyone here. So
9 with all the threats, with all the fear, she sent -- she worked
10 14 days at most out of five months. Does that make sense?

11 Now, at a minimum, so the agents might have missed
12 something. In all the years, how much could they have missed?
13 I mean, seriously? If it wasn't 5,690? Was it 7500? Was it
14 10,000? Was it double? So instead of working 14 days, she
15 worked 28. Was it triple? Instead of 14 -- instead of 28
16 maybe, it was 56? Where do you stop? How far off are their
17 numbers before you finally sit back and say, You know what?
18 This makes no damn sense. She couldn't have been threatened
19 with her sister's life. She couldn't have been threatened with
20 her mother's life. She couldn't have been threatened with her
21 own life and believed it and turn around and work five day or
22 ten days or 20 days or whatever the math on whatever particular
23 number you want the choose.

24 Ask -- expect, Ms. Hajjar to answer that. She's a
25 terrific lawyer. If anyone can answer from what's on the

Summation - Gold

1 record, she will. But don't let her tell you, and I don't
2 think she will, that, Well, yeah, it says 5,690, and I'm not
3 making up numbers, that's what they were. But really it could
4 have been 50,000. It could have been a million. Right?
5 Seriously? Is that the kind of evidence that you could rely on
6 beyond a reasonable doubt to convict him, to label him the
7 monster they're making him out to be? What might have been?
8 No. These are their numbers. I didn't make them. I didn't
9 make those charts. These are their numbers. This is what
10 they've come to you with. This is what you have to use to
11 decide, period. And those numbers completely destroy their
12 case.

13 It undermines the entirety of this idea, again,
14 tricked to come here, forced to work. I'm 14, I don't know
15 anything. I had no choice. Yes, you did, and you made it.
16 You stopped taking calls. You stopped working. You worked ten
17 days, all for whatever it is. That's not what you do when
18 you're worried that your sister's going to become a prostitute.
19 You're 12 year old -- I mean, come on? Made for TV.

20 Does she have a sister? Yeah. Not the sister, but
21 was she, Delia a prostitute? Absolutely. Was she threatened?
22 That's the consumptible part. That's the audience teaser that
23 they throw out, that she throws out there to get you to bite.
24 But if you bite, you're going break your teeth. It doesn't
25 make sense. It doesn't add up. Math. It's not an argument.

Summation - Gold

1 This isn't an opinion. Math. Do it.

2 Here's the third thing that completely undermines any
3 ideas that Francisco forced Delia to live the life she led for
4 three and a half years. It is my position, and I think the
5 evidence is overwhelmingly clear, they lived together. They
6 slept together. They shared a home together. They were a
7 couple. He had parties for her, birthday parties. She made
8 lobster dinners when he comes home just after five months of
9 being away. They were a couple. They loved each over.

10 Yesterday, Veronica said something, couldn't have said
11 it better -- I'm sorry. Would you -- Ms. Kassner, did you do
12 her --

13 MS. KASSNER: (Nodding head affirmatively.)

14 MR. GOLD: I'm sorry.

15 When Ms. Kassner asked her, after she tells this story
16 of being forced into work. What was your relationship with
17 him? And she wasn't shy, that's for sure. And she looks at
18 Ms. Kassner, frankly, like she's nuts. What was my
19 relationship? How do you have a relationship with a pimp?
20 There is no relationship. You don't have a relationship with
21 someone that forces you to work as a prostitute. You don't
22 have a relationship with someone who hits you. You don't have
23 a relationship with someone who threatens you and your family.
24 That's not a relationship. That's a pimp and his employee and
25 his piece garbage; his chattel; his trash to do with what he

Summation - Gold

1 will. That's the relationship.

2 Can I have the Elmo, please?

3 And so I ask you:

4 (Mr. Gold produces photograph on the Elmo.)

5 MR. GOLD: Is that a pimp and a slave?

6 (Mr. Gold produces photograph on the Elmo.)

7 MR. GOLD: Is that fear and duress?

8 (Mr. Gold produces photograph on the Elmo.)

9 MR. GOLD: Is that a threat to steal your sister?

10 (Mr. Gold produces photograph on the Elmo.)

11 MR. GOLD: Is this, My God, what can I do to escape?

12 (Mr. Gold produces photograph on the Elmo.)

13 MR. GOLD: Is this a nervous smile?

14 (Mr. Gold produces photograph on the Elmo.)

15 MR. GOLD: Is that her pimp or her lover?

16 (Mr. Gold produces photograph on the Elmo.)

17 MR. GOLD: Oops -- I'm sorry.

18 Is that a party or is that pressure?

19 (Mr. Gold produces photograph on the Elmo.)

20 MR. GOLD: Is that a celebration or a wake?

21 (Mr. Gold produces photograph on the Elmo.)

22 MR. GOLD: Is that champagne or is it water?

23 (Mr. Gold produces photograph on the Elmo.)

24 MR. GOLD: Is this a victim of sex trafficking?

25 (Mr. Gold produces photograph on the Elmo.)

Summation - Gold

1 MR. GOLD: Your turn. You ask the question. I'm
2 getting tired up here.

3 (Mr. Gold produces photograph on the Elmo.)

4 MR. GOLD: Is he holding her up from drowning? Is she
5 holding him up?

6 (Mr. Gold produces photograph on the Elmo.)

7 MR. GOLD: Look at the fear. Look at the pressure.
8 Look at the terror.

9 (Mr. Gold produces photograph on the Elmo.)

10 MR. GOLD: Any moment now, he's going to beat her.
11 Where are the marks by the way? Do you remember -- this is
12 oops -- I'm sorry.

13 This was around the time she's getting beaten in the
14 face. She couldn't open her mouth the next day.

15 Now, obviously, I'm not saying this is the same day.
16 But this is a woman wearing a bikini. It doesn't look -- I
17 don't see any marks or bruises. If you remember at some point,
18 because I asked about these photos on cross-examination, and on
19 redirect it was -- there was some question, Okay. She asked
20 you if you had any bruises on your face, and of course, there
21 aren't any. And instead of as she said on her direct, on the
22 original testimony, Yeah, he punched me in the -- Well, he
23 would punch me but not leave marks in places where no one can
24 see.

25 Do you see any marks anywhere? Forced? Seriously?

Summation - Gold

1 This a couple at the beach. The only thing at Coney Island
2 missing is a hotdog from Nathan's. They're having fun. No
3 harm.

4 (Mr. Gold produces photograph on the Elmo.)

5 MR. GOLD: They're posing for each other for camera
6 picture so they have the memory. So she has a permanent memory
7 of having gone there.

8 Remember, she gave these pictures to the Government.
9 These aren't my pictures. They're hers. She kept them for all
10 these years. Why? Because this is her lover. That's why
11 these pictures were taken. It's not her pimp. It's not some
12 monster. This is the man she hugged every night, that she
13 thought she was going to be spending the rest of her life with.

14 (Mr. Gold produces photograph on the Elmo.)

15 MR. GOLD: And, My God, don't tell me she's nervous.

16 And you know what? Yeah, two things: One, I've got a
17 big mouth. But on top of that, I've been talking a lot about
18 Delia. And you know what? I've got news for you, I don't
19 think she's a bad person. I'm not standing up here telling
20 her -- telling you, What a piece of crap she is. How dare she?
21 Because in all honesty if I had her life, I can't sit here and
22 tell you I wouldn't take the stand and lie either. I would
23 like to think I wouldn't. We'd all like to think that, but the
24 reality is until you've walked in someone else's shoes. Right?
25 I don't know what would happen. Thank God I've never had to

Summation - Gold

1 find out. Thank God none of you ever will.

2 She came from a horrific circumstance, and she's here
3 and she made a horrible choice, and then it was all blowing up.
4 Her dream of being with Francisco for life, over. Her dream of
5 building a house that they sent money back to Mexico for to
6 live next to her parents and to try and create a life and a
7 family with him, which is all what she thought in her head, she
8 told you, gone. She overhears Francisco saying, It's over.
9 I'm going to send her back.

10 She learns about Carla. Huh? How did she get -- she
11 heard about Carla and knew, Well, wait a second here. Carla
12 didn't want to go back. Carla didn't have legal status here.
13 What did she do? How did she figure this way out to get to
14 stay here? Well, she turned in her pimp. Claimed she was a
15 victim of child sex trafficking, got herself a visa. She
16 continued working as a prostitute. That's what she told the
17 agent that she, of course, didn't remember. I submit to you
18 she did say that, and so she knew. And she's no dummy because
19 she's a businesswoman, not a victim, and she figured out
20 Francisco is my ticket. He was going to screw me, send me
21 back, and he knows I don't want -- I desperately don't want to
22 go back. And you know she doesn't want to go back because she
23 hasn't gone back. Here it is since 2014 or thereabouts, she's
24 had legal status. Has she ever gone back? No. No. So you
25 know she didn't want to go back.

Summation - Gold

1 And so what does she do? She files a visa
2 application. She goes to the police, probably thinks that's
3 going to be the end of it because maybe she did believe no
4 one's ever going to believe her, even she walked out about two
5 minutes before her life ended with the delivery books. But
6 then, and what do you know? It came in handy. She turned him
7 in, didn't get to see him so many years later.

8 And do you want to know what? I honestly can't say I
9 wouldn't have done the same thing. I can't. I'm not standing
10 here saying it makes her a bad person. But it doesn't make her
11 somebody that warrants convicting and labeling Francisco for
12 the rest of his life. You may not like him. You may think he
13 did some terrible things, some nasty things that he shouldn't
14 have. Okay, I respect that. That doesn't make him guilty of
15 the crimes for which he has been charged.

16 And I remind you, that in so many instances, and I
17 think I referred it earlier, where the Government was talking
18 about these business meeting that they attended, and Francisco
19 was in none of them. And do you know why? Because he was a
20 baby. He was 16 years old. I'm sorry. They're not going to
21 listen to him. He's not part of any venture, any business. So
22 she's not a bad person. She said so herself, and I respect
23 that. And let her, I don't want to see her deported. But her
24 saving herself is not an excuse to sink him.

25 Look at the evidence. Weigh the evidence. Look at

Summation - Gold

1 her story critically, because when you do, I submit to you it
2 doesn't stand up any better than I'm standing up right now,
3 okay. It doesn't fit. And of course, I believe the arguments
4 that I've made to you. I think they're persuasive. I think
5 they're based on fact, and I really hope that Ms. Hajjar stands
6 up and answers the questions that I've asked you, because if
7 she doesn't, if we don't hear an answer to why she didn't want
8 to be deported from why no money was sent in all of 2010,
9 \$25,000 to support the conspiracy, if she doesn't explain to
10 you why Veronica was wrong, you do have a relationship with
11 your pimp; you do go to beach with the man who's torturing you;
12 you do celebrate New Year's and put cake on your face and laugh
13 and have Halloween parties with champagne and have fun with the
14 monster who's destroyed your life? Wait for her to answer
15 those questions. And think of those questions before you
16 return your verdict, because I submit to you when you do, you
17 will find that yeah, you hate Francisco, you hate his family,
18 you hate everything about him, okay, but they haven't proven
19 the case that those charts that Ms. Argo referred to yesterday
20 represent.

21 So your verdict will be guilty or not guilty, proven
22 or not proven beyond a reasonable doubt. I'm not asking you to
23 give the man a medal. I'm asking you to do your job. They
24 haven't proven the case. And regardless of anything and
25 everything, in this building that's how it works. We could all

Summation - Gold

1 go back to our lives and look at the newspapers and this guy
2 should have got this -- oh, I can't believe this. Not here.
3 Not today. Not in this building. That's why you were chosen,
4 because we know you're going to do your job.

5 Okay. Don't all cheer at once, but I'm just about
6 finished. I'm about to sit down, and Mr. Hueston will get to
7 go, and he's probably ready to put a knife in my back for
8 taking so long, and I don't blame him. And then Ms. Hajjar
9 will get to speak to you one more time because the Government
10 does have the burden of proof, so they get the extra chance to
11 speak to you. And I just ask you when you go back into the
12 jury room and when you're listening to what Ms. Hajjar tells
13 you, and I'm looking forward to it, she's a terrific lawyer and
14 I'm interested to hear how she responds. But ask yourself,
15 because I'm not going to be able to: What would Gold say? Not
16 in two and a half hours, but you could limit to, What would
17 Gold say in ten seconds in response to anything she says?

18 What argument did I raise that maybe you agree with or
19 that you disagreed with? Or more importantly, what argument --
20 or what thoughts did you come up with that I didn't? What
21 possible explanations that would make any of this make sense
22 have you come up with? And that's fair. That's your job. But
23 try and remember, at least, to think -- stop and think for a
24 minute when she stands up and after you go and retire and when
25 the Judge gives you the legal instructions, of course, what

Summation - Gold

1 would Gold say? Would she answer that? And I trust and I hope
2 and I expect that after weighing and reviewing the evidence,
3 after disregarding the nightmare, accepting that it was true
4 and that you cannot change it regardless of what you do, just
5 don't make a new one. Don't turn Delia's misery into
6 Francisco's nightmare. And I trust you'll upon doing so solely
7 on the evidence, without fear or bias towards none, you will
8 return a verdict of not guilty.

9 Thank you.

10 I'm sorry I took so long.

11 THE COURT: I think it's about time for a break,
12 ladies and gentlemen.

13 THE COURTROOM DEPUTY: All rise.

14 (Jury exits the courtroom.)

15 (The following matters occurred outside the presence
16 of the jury.)

17 THE COURT: Mr. Hueston, about how long do you think
18 you might be?

19 MR. HUESTON: I think an hour. I'm going to try to
20 make it shorter, but that's -- that I think is realistic,
21 Judge.

22 THE COURT: Maybe we will do the rebuttal after lunch?

23 MR. HUESTON: I'm going to be as fast as I possibly
24 can, Judge. It's just --

25 THE COURT: No, no, I understand that. But I'm just

USA v. Melendez-Rojas, et al.

1 trying to figure out how to do that --

2 MR. HUESTON: Oh, sure.

3 THE COURT: -- so we don't break anybody in the
4 middle.

5 (Pause in proceedings.)

6 MR. HUESTON: Yeah, I think that's going to happen,
7 Judge.

8 Yeah, but I do think that's about an hour, maybe a
9 little shorter. I think that's realistic.

10 THE COURT: Okay.

11 (Recess taken.)

12 THE COURT: Everybody's here, correct, with the
13 exception of the defendants?

14 MS. KELLMAN: Judge, they're right there.

15 THE COURT: Okay. Why don't we bring in the
16 defendants.

17 (Continued on the next page.)

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USA v. Melendez-Rojas, et al.

1 (In open court.)

2 (Defendants enter the courtroom.)

3 COURTROOM DEPUTY: All rise.

4 (Jury enters courtroom.)

5 THE COURT: Please be seated. Mr. Hueston.

6 MR. HUESTON: Thank you, your Honor. Good afternoon.

7 Two weeks ago, I stood before you and I talked to you
8 about what I thought this case was going to be about and I used
9 a couple of terms. I used the term "resistance." I talked
10 about war.

11 And if we can go to the first slide I want to start
12 there.

13 Now, I really believe in this precept and this
14 thought, and why these are things from Clausewitz. He talks
15 about all action takes place so to speak in a kind of kind of
16 twilight which is like a fog or moonlight often tends to thing
17 seem grotesque and larger than they really are. Two qualities
18 are indispensable. First, an intellect that, even in the
19 darkest hour retain some glimmering of the inner light which
20 leads to the truth. And second, the courage to follow this
21 faint light wherever it may lead and everything in war is very
22 simple but the simplest thing is difficult.

23 Now, we're going to go through that and you've been
24 seeing this process, right? This back and forth, you know,
25 this struggle where you sort of get hit with this emotional

Summation - Hueston

1 impact of the witnesses. And then we do cross-examination and
2 it begins to change. It changes the narrative that the
3 Government's put forward.

4 If we can go to the second slide.

5 So the conceptual framework I want to work with you
6 today. So one, and the other lawyers have mentioned this,
7 would you trust this witness in a matter of personal concern to
8 you? I mean, the key of this case really is about credibility,
9 right? And so, it's an obvious first thought. And then
10 second, I want you to think about this. Able Romero-Melendez
11 is not charged in Counts 15 and 16. That's the money
12 laundering and the distribution of illegal proceeds.

13 Now, it's sort of like the elephant in the room
14 because if you really think about it, if he's part of this
15 conspiracy, why is he not part of the money because there's a
16 problem with the Government's case. It's the first sort of
17 obvious thing. But I want that to stay in your mind as I'm
18 talking to you and addressing you today.

19 The next one is, you know, what does proof beyond a
20 reasonable doubt look like? I'll tell you. Count 18. Did I
21 ask any questions of anybody except to say have a safe trip on
22 this issue? Because there's nothing to prove, they proved it.
23 Mr. Able Romero-Melendez is sitting right there. He doesn't
24 have permission. You understand there's no reasonable doubt
25 about that issue. So that is what reasonable doubt looks like.

Summation - Hueston

1 Now, there's different degrees but it's clear that
2 they don't have an issue with Count 18, right? So I want that
3 to stay in your mind. And the next thing is I know this must
4 be in your minds, wouldn't you have expected to hear from
5 Cristina Sanchez-Sanchez and Lisbeth Castellano-Batista about
6 Abel.

7 Now, the judge is going to charge you. We both have
8 subpoena power. We both can call witnesses. But if one
9 difference between the Government and a defender, they have the
10 burden. Every single one of the defendants here has faced
11 their accuser.

12 You know we have Diana and I'm going to talk about
13 Diana, okay? What we have instead is sort of this idea about
14 these women but we don't have their testimony. We don't know
15 how they got to the country because there's no testimony about
16 border crossings, enticement, luring, meeting the parents,
17 giving the tequila, nothing. Zero. And wouldn't you have
18 expected to hear from them? So I want that to really stay in
19 your mind. Because they do come up but it's always through,
20 well, I heard about this or I saw this. And they want you more
21 or less take the sort of nightmares you heard and then attach
22 it to this enigma, to this phantom, and say this must have
23 happened to these women but we'll see.

24 First of all, it's not sufficient but there's actually
25 serious problems with the Government's proof and I talked about

Summation - Hueston

1 warfare being surprise. I think you noticed when I do my
2 cross-examinations how we would go about prosecuting the
3 defendants that we were really precise and focus on what we
4 needed to get from a witness. So now I'm going to put that
5 together. So let's talk about the first, I'll call it the
6 gambit, okay, so if we can change it the next slide.

7 The Government's first failed gambit. And this really
8 is Daisy; right? And they use this witness to bring up
9 Cristina and mentioned that Alicia Romero-Melendez wired the
10 money for Abel, that's the point the case to put Cristina in
11 there. But, again, Abel is not charged with money laundering
12 or distributing proceeds of sex trafficking. So what's the
13 point of the wiring? He's not charged with it because there's
14 something -- they have to explain it. I don't, but I have to
15 point it out to you because I'm a defender.

16 Now, next, he's not charged in any substantive count
17 with trafficking Cristina or Lisbeth. You see it in different
18 counts. The only count where there's a substance, a human
19 being that's listed is Diana. They didn't indict him for those
20 two women. Why? Because there's simply a lack of evidence.

21 Now, what did our cross reveal? And also, let's say
22 this. He's not indicted for Daisy and I don't want to miss
23 that point. So we have a couple of things.

24 The cross revealed the fact that my client Abel
25 Romero-Melendez didn't force you to do anything, is that fair?

Summation - Hueston

1 Yes, that is correct. That's really the end of the analysis
2 with Daisy.

3 So let's go to the next slide.

4 Next, while you were living in Queens, you learned,
5 actually, that Fabian had a wife and a child in Mexico, true?
6 Yes, I found out. Okay. And, in fact, while his wife, his
7 wife is name is Dulce Olquin, correct? I don't know. Well,
8 she sent you a picture of her child's birthday party to your
9 cell phone, correct, from Mexico? A picture of the girl, that
10 was it.

11 Next slide please.

12 And also the fact that your boyfriend -- you learned
13 that your boyfriend had a wife and a child in Mexico and that
14 you were really angry, correct? Yes, I was very angry when I
15 found that out and that's why I decided not to live there
16 anymore. I mean that contradicts the Government's theory on
17 its face.

18 Now, I want to bring it out because I want to show you
19 a pattern of the witnesses that the Government has brought
20 before you. That's your real motivation. I am jealous, how
21 dare you have another woman. You want to mess with me, you'll
22 see how this is going to go. And you see how it's going. So I
23 left. And she said, I was trying to leave that life behind me.
24 But she said, you know, I withstood but the scrub, the battle
25 of cross-examination, because that was that wasn't a prepared

Summation - Hueston

1 statement. That came out of her mouth because we were
2 cross-examining her and she let out bit of the truth, her real
3 motivation. So that's the Government's first failed gambit.

4 I like chess so that's why I talk about that.

5 Now, let's talk him about Maria Rosalba, Fabiola M.,
6 and Veronica. He's basically absent. He's not charged with
7 trafficking these women but we see a pattern. Witnesses that
8 have little or nothing to say about Abel Romero-Melendez. Now,
9 literally days in the trial like besides identifying him or
10 not, I was just sitting there really doing nothing. And then I
11 started, we had some things to do with the agents, and I got up
12 and I had something to talk about. But one thing I noticed
13 that Fabiola M. she was in Queens from 2009 to 2015, certainly,
14 a time when Mr. Abel Romero-Melendez was there and she has
15 nothing to say about him. And that should strike you as, I
16 mean, she's here, she's going through this going to the houses,
17 but she's not seeing this person. He's not beating people up.
18 I got no horror story for you. I got nothing to tell you about
19 him. It's a concession. It's a weakness in their case. And
20 keep that in mind their lack of evidence.

21 Now, the Government may say that this is really just a
22 matter of the pieces that are on the board, they have to more
23 or less deal with the witnesses they have. But that statement
24 is really going to ring hollow once we get to Diana and we're
25 going to see how they really prosecute it, that piece in their

Summation - Hueston

1 arsenal.

2 He's not charged with trafficking these women. He's
3 not charged with laundering any money for these women. There's
4 no connection.

5 So let's go to Delia. The Government suffers another
6 reversal, another loss.

7 Now, again, very emotionally compelling what she did
8 and it's deployed expertly. I mean, the tone was so quiet.
9 The effect was like it was literally overwhelming to sit there
10 and listen to her. And it's like to get up and cross-examine
11 her, it's like why would I even want to do this? But we're
12 defenders, it's our obligation to do the hard things.
13 Clausewitz, what we do is simple but it's very hard. It's our
14 obligation. And so, we crossed.

15 Now, again, he's not charged with trafficking her.
16 But, again, she was used, what, to bring up Cristina and
17 Lisbeth. But she didn't remember Lisbeth's name and also
18 Alicia. And I used here -- she said -- her cross was not just
19 about her lack of candor but her contempt for her obligation to
20 tell the truth. And there is, like, I don't recall. Can you
21 say it another way.

22 Now, the reason I really bring that out and, you know,
23 I don't want to belabor the point, but when you show no candor
24 it's like so lopsided it's almost there's a coercive presence
25 in this courtroom but it's not from the defense. She does not

Summation - Hueston

1 want to enter anything contrary to the Government's narrative.
2 And the way she decided to do it was, I do not recall; ask me
3 another way. Over and over and over again because you can feel
4 her unwillingness to give an inch on that. But when the people
5 who she needs assistance from, who are deciding her fate, asked
6 her questions, it came out very simply. But, again, we had to
7 then go in and ask her these questions.

8 And if we can go to the next slide. I'm sorry, this
9 one.

10 I'm just learning PowerPoint and it's not so easy to
11 read but I'll move over here.

12 Yesterday, you mentioned Alicia's sister told you or
13 gave you instructions about who you should be talking in terms
14 of Abel's girlfriends, Cristina and the other woman, do you
15 remember? Yes. Where were you? I don't remember that. Can
16 you give me a month? I don't remember the month. Can you give
17 me -- was it day or night? I don't remember. Was it
18 springtime? I don't remember. Who was there? I was with
19 Alicia, Francisco. Sometimes he takes me to where Alicia was
20 and also resided.

21 Now, let me stop there. That's the script. See, I
22 don't remember, I don't remember, I don't remember. Now, I'm
23 going to repeat what I've been trained to say. And I said, no,
24 I want to you answer my question. So we went back.

25 My question is when she gave you the instructions, who

Summation - Hueston

1 was there? I don't remember who else was there. Do you recall
2 what apartment you're at? I don't remember what apartment I
3 was in. No details because it's not true. Very simple. I'm
4 just going to throw some innuendo, let it float in the air, and
5 I hope it just sticks in your mind but I can't even tell you
6 one thing about it. It's not credible, it's not realistic, it
7 should be rejected.

8 Now, we continued because, again, it's not -- our job
9 isn't easy, you got to keep fighting. So we go on.

10 So you identify people -- this is the -- it started in
11 the Mexican consulate. Because we're precise, we had a reason
12 for asking these questions. You did find people who were part
13 of this sex trafficking ring, correct? Can you ask a question
14 using different words? That was a bizarre response. There was
15 nothing confusing about the question but she needed time to
16 deal with the question. And that's her pushback because do you
17 know what the word identify means? Yes. Do you know what the
18 term sex trafficking means? And she says no. I mean,
19 literally, my head exploded. And then she's like -- so I ask
20 her, Have you made an application to the United States saying
21 you were trafficked sexually? Because I am a victim of sexual
22 trafficking. And the Government objected and she had to answer
23 the question. I didn't know it at the time what they meant.
24 And that's another trick. So she's trapped and she's got to
25 sort of now move. I didn't ask her about the time, I asked her

Summation - Hueston

1 if she knew what sex trafficking was, but she didn't know where
2 we were going. That was the point. She was in uncertain
3 territory and she's trying to figure me out. But I'm serious
4 about my job. And I was going to get to where I needed to.

5 And the judge asked me, well, we can go to the next
6 slide. Now, I said I'm going to focus your attention on
7 March 2016. Do you remember going to the Mexican consulate? I
8 don't remember. I don't remember what year I went. But you
9 don't dispute that you went to the Mexican consulate, correct?
10 I did go to the Mexican consulate. And you were there to give
11 a statement about what happened to you. Now, in your
12 statement, you identify people who were involved in this sex
13 trafficking ring, isn't that a fact?

14 I'm asking a question because I know the answer and
15 I'm going to get to the truth. Remember Clausewitz talks about
16 the fog, the uncertainty, you have to have the courage to keep
17 moving forward to get to where you need to get.

18 And I asked her and you never identified Abel
19 Romero-Melendez, did you? I don't remember. Her shield, her
20 default.

21 You signed a document detailing what happened to you,
22 do you remember that? I don't remember that. It was a long
23 time ago. It was only four years ago, by the way. But that's
24 the game.

25 And now we can go to the next page.

Summation - Hueston

1 And then we talk about the exhibit. And now, Miss,
2 I'm going to show you first, and I'm not going to go through
3 all of this, because really I want to get to the Government's
4 concession because they give up at some point because they
5 must. It says, does that help to refresh your recollection? I
6 don't remember. Did you sign the last page? She see her
7 signatures, she has to say yes. Does it help refresh your
8 recollection? It was a long time ago. And then we have an
9 objection, sidebar, and then what happened?

10 Next slide, please.

11 Concession. The Government stipulates on the record
12 that this document, does not contain Abel Romero-Melendez's
13 name nor does it mention his sister Alicia. I thought she was
14 there to talk about the ring and who how he was part of it but
15 he's not part of it. She was put on the stand to say it to
16 you. But I confronted her with an earlier statement that
17 showed her lie. That's what a defender is. So what have we
18 learned? Resistance produces concessions. It creates the
19 truth. It gets to the truth. And the pattern is being shown
20 at this point. The Government's had witnesses who were
21 evasive, interested, and brazen and their disrespect for their
22 testimony to you.

23 Now, then we had some lesser skirmishes at this point.
24 It got heated and then things relaxed a little bit so we can go
25 to the next slide and we talked about the money.

Summation - Hueston

1 Now, again, he's not charged with money laundering.
2 He's not charged with distributing proceeds. But these figures
3 are put in front of you right now. They do have to show,
4 they're going to say, well, you know, I know there's going to
5 be an argument. They have to say, okay, well, we know that he
6 was getting some money and not make sure he was involved with
7 Cristina or Lisbeth doing something wrong. They can show a lot
8 more than just that. But one thing I really wanted to point
9 out about this is that if we can go to the next slide. Hold
10 on. Can we just go back? I'm sorry.

11 The reason we put up to the 2016 slide because the
12 Government made mention to say, oh, how much money did Lisbeth
13 Castellanos-Bautista send in 2016? They literally asked that
14 question, right? And I wanted to know more about that.

15 And then they also had this huge, I'll call it huge,
16 this big number from Cristina Sanchez-Sanchez. Your eyes sort
17 of go, whoa, that's a lot of money. She's like number two on
18 the list so I got to go into the weeds to figure this out and
19 help you understand it and I think I did.

20 So if we can go to the next page.

21 So, first, he's not charged. I'll mention that. Now,
22 the charts are misleading, okay? Because remember we went
23 through I asked the analyst and first thing we did, let me go
24 in order, that 61,000 was sent to the other. And I went
25 through all the different names, if you remember. The

Summation - Hueston

1 Sanchez-Sanchez, everything like that. She's sending money to
2 her family.

3 Now, that's the obvious inference. They have the same
4 and similar surnames. She did send money to Abel but he's not
5 charged with a substantive count for trafficking her. So
6 there's a conflict, that's doubt. Why wouldn't they charge him
7 with trafficking Cristina Sanchez-Sanchez like the other women
8 because that's not enough. So he's not indicted for it but
9 they still want to have the innuendo floating around.

10 So then we had another concession, though, because I
11 was making my point. I was going after them. This name and
12 that name and this name and they got up and they said, We
13 stipulate. We give up. I won. But the battle is not over
14 and, again, ultimately it's your position decision and I'm
15 trying to get you to trust that I am trying get you to see
16 what's really happening. And there's good things and bad
17 things I got to point out but I'm going to do my best.

18 Next, we saw -- let me go to the next slide -- the
19 lease when Special Agent Davies came up. That was pretty
20 understanding. Let me grab some water for a second.

21 The Government put in this lease and they argued on
22 summation that it showed that Abel is in the United States
23 without permission. But, again, we're not fighting that issue.
24 But the lease showed things that are very important, I thought,
25 because here's Special Agent Davies who has done, I think, 12

Summation - Hueston

1 trafficking operations. So I wanted him to point out a couple
2 of things. Do you usually put the name of the person, the
3 victim, on the lease with you? I mean it's a big document,
4 like, maybe a hundred-some-odd pages. I turned to a couple
5 things of things I want to point out. One of the things
6 they're trying to do throwing these guys under the bus they
7 don't work but he's got a letter from his employer in that, in
8 his lease.

9 Now, again they can take whatever objective or
10 investigative techniques they want but they got these records.
11 And so, it makes you wonder: He's not indicted for the money
12 laundering, he's not indicted for the distribution of proceeds,
13 he's not indicted for any of the women except for Diana, he's
14 not indicted Cristina or Lisbeth, you really have a great deal
15 of doubt. You have reasonable doubt already. It's just
16 running all over the place and I'm not trying to overstate it.
17 So he's got a bank account and remember I asked a question
18 about a bank account and that was designed to make you think if
19 you have his bank records and you're looking at this massive
20 wire fraud, why aren't you subpoenaing his bank records. I
21 mean, this seems like, you know, simple "Cop 101." So Lisbeth
22 signs the lease.

23 If we can go to the next slide.

24 She gets her I.D., the traffickers give their I.D. to
25 people. That's preposterous. And when I asked Davies the

Summation - Hueston

1 question he got nervous. So I asked him. And this is
2 Page 1100 to 1,119 in the record. I said, Because people often
3 hide people, excuse me, because people often hide the people
4 they're trafficking, right? He said, well, sorry about that.
5 Let me start. Here, I said I was asking, Have you been part of
6 over a dozen trafficking investigations? He says yes. And in
7 another part of that, when you're doing an investigation,
8 you're trying to determine who was being trafficked. He says,
9 that is correct. Because people often hide the people that
10 they're trafficking. And, you know, that was the thought that
11 he said yes but not always though. He was like sometimes they
12 do it, sometimes they don't. And that's fair for him to say
13 that because maybe it's true. But it should cause you concern,
14 and since out of all the other witnesses you've seen here,
15 like, they've never been put on a leaser. They've never given
16 any sort of ownership in their life, it's all been domineering.
17 But here's someone who had the same level of agency on the
18 lease. She signed the lease as a copartner. Again, she's not
19 indicted for trafficking her. I think this speaks volumes
20 about really who you're being asked to evaluate.

21 Now, the next thing, and this was sort of interesting,
22 I like digging in the weeds on facts and cases.

23 So if we can go to the next slide.

24 The Government used these books to show all the
25 drivers, but if you take a good look at all them they have

Summation - Hueston

1 recipes for food. And I'm not -- I don't say that lightly, but
2 I want to sort of as you try to understand a culture and a case
3 and people you really don't know and understand their lives.
4 So here are these books with numbers for drivers. But then
5 they also have, you know, I don't speak Spanish but I know
6 things like onion, I get it. And if you go to the next page,
7 too, that's recipes. So I figured if they can show the books
8 to show here are the drivers' numbers, I'm going to show you
9 that they showed recipes. What does it say about the women,
10 about coercion and force? I mean, think about that. They
11 always try to make these books, books of horror, of
12 destitution, of enslavement, but there's cooking recipes in
13 some of them. Not all of them, but some.

14 And what does that say about their state of mind?
15 What does that say about how they view themselves? And it's
16 really little details where you can really begin to see things,
17 and that's why I like pointing them out. I think you get the
18 point.

19 The next thing was the house. Now, this is where they
20 arrested, where they stopped Cristina Sanchez-Sanchez. I'm
21 going to keep saying it he's not charged with trafficking her
22 in a substantive way at all, she's just here. But as you hear
23 about the house, you think that this must be the most ugly,
24 dirty horrible place to live. But it's a home, not a prison.
25 You look at the picture, you see children's toys for babies.

Summation - Hueston

1 You know, this is a hard immigrant life and I can't explain,
2 you know, Polk invaded Mexico and took half their country and
3 we are living with the effects 120, 150 years later. I don't
4 know how America would be if we lost half our country. The
5 desperation it would create. But they're trying to make a home
6 here, this isn't a prison.

7 You go to the next slide.

8 Wait, I'm going to grow flowers in my prison.
9 Obviously, you can. But these are little things that show
10 really what's happening in people's lives. You know you got
11 Kermit the Frog or whatever on the wall.

12 Let's go to the next one.

13 It's not a house of horrors, but that's the narrative
14 they wanted to put in your mind, and again, the defender, what
15 the defender pulls out the facts to show you. Again, this is
16 Cristina Sanchez's bedroom. Is it a place of captivity?

17 Next, I'm going to go to the border crossing and
18 charts. I'm sorry, again, it's not the best PowerPoint. They
19 put on the chart, again, I guess there's no hierarchy but, you
20 know, the illusion they create is somehow -- I didn't want to
21 you have this false impression -- that somehow it's just these
22 three people or these two people going across the border. And
23 Mr. O'Dell seems straight up to me, you know, just sort of he's
24 not evasive. That's how a person who is just trying to tell
25 the truth sounds like as opposed to the victims.

Summation - Hueston

1 So, you know, he says he wants to make it clearer. So
2 because the Government was the first one to use the word
3 encounter, right, and I asked him what the meaning of the word
4 was, right? And I want to make sure that the people there are
5 not the only people who were encountered. He goes, no, that's
6 not what the chart represents at all. I mean he sees his
7 responsibility to you. He wants to make sure that you have a
8 clear understanding so it's not misleading and that's
9 congratulations to him, he's doing the right thing. It
10 represents incidents a person was arrested that we found a
11 record of. And I asked about how many people could be
12 encountered in an encounter and he goes, well, they range
13 anywhere from a few people all the way up to, I think, one of
14 them had 40 or so. So that chart should be a whole bunch of
15 people, not this little isolated, creepy effect that they want
16 to present to you.

17 They brought in Officer Terez, and obviously, I had no
18 questions for him because you now Count 18, again, let's
19 compare it. How are these other counts compared to Count 18
20 now, the illegal entry. There's really no doubt in your mind
21 about that. Mr. Abel Romero-Melendez came into the country
22 illegally. How about the other counts? A lot of questions,
23 that's what reasonable doubt feels like, that's what it is.

24 So let's going to the next chart.

25 Diana, really, I would say, "overreaching failure."

Summation - Hueston

1 And I think that's a fair way of looking at her. And things
2 got hot again in terms of what we had to do. And here's the
3 main issue and I want you to sort of compare and contrast her
4 testimony because, really, they have to succeed with Diana. I
5 mean, she is their last gambit, she is their last opportunity.
6 Like, so she says in 2006, shortly after I arrived, that's her
7 answer. Then he goes, after the first night that you worked,
8 you talked to Miguel again. And she talks about being raped
9 the first night. I mean, that's her testimony under oath to
10 you. Now, I'm a defender and I have an obligation. I'm going
11 to carry out my obligation because she said something different
12 earlier in time.

13 So here's the testimony and they talked about everyone
14 being there. So let's go to the next part when we challenge
15 her and then do you recall telling the Government that Abel
16 Romero-Melendez didn't arrive in the United States for three
17 months after you had arrived in the United States? I mean, I
18 would be derelict in my responsibility to my client if I didn't
19 point that out to you. Shame on me.

20 And what's so confounding about it is the Government
21 has these records. I don't remember that. And then she
22 finally sees it and she says it does refresh her recollection.

23 Now, we asked her about the meetings what she had
24 about eight either in person on the phone. And, obviously,
25 they were taking notes. Obviously, they are not incompetent.

Summation - Hueston

1 They would never say one day Abel got there the day of, day
2 after, and then they say, oh, no three months. That's not even
3 remotely possible. The fact that she said that three months
4 later, that's what she said. To her credit, she admitted it
5 once she was confronted with it but it doesn't fit their
6 narrative because Abel has to be there when she's attacked and
7 raped because we have really nothing against Abel. But we need
8 this inflammatory, this complete horrific encounter to stay in
9 your mind so you will convict him. You must believe it.

10 We're going to get to a larger point. These other
11 things she said. So no you testified on direct that Abel
12 Romero helped you memorize your fake date of birth, do you
13 remember that? Yes. Do you remember you never told that to
14 the agent of the Government that Abel assisted you in trying to
15 memorize a fake birthday, do you remember that? Yes. So
16 you're seeing a pattern, right? She gets on the stand and says
17 something damning against my client, then we confront her with
18 the statements taken by government agents and prosecutors that
19 completely contradict her. You're seeing a pattern, okay?
20 This itself breaks apart the Diana gambit, the three months in
21 itself. Now, we go on and talk about a number of people and
22 she says she agrees no one forced her to cross the border.

23 And if we go to the next slide.

24 Now, we asked about Carmen. And Carmen is sort of
25 interesting in a way. You know on direct she said she didn't

Summation - Hueston

1 know where Carmen went. And then she admitted, oh, yeah she
2 went back to Veracruz.

3 Now, the reason we brought it up is these are the
4 monsters who were, like, pulling people in. Once we got you,
5 you're trapped like you're just done. But it shows, like,
6 evidently Carmen can go wherever she wants. But also I was
7 curious about that, too. Evidently, I don't know, we really
8 don't know anything about Carmen. But she was there in make-up
9 and she had, like, that's all there really is to say about her.

10 I was curious as to why she's not in the border
11 records because he everybody was about to go cross the border.
12 She didn't make it, you will assume she was interdicted and
13 stopped and this makes me wonder, is there even a Carmen?
14 Because they encounter people they have all the fingerprints
15 and the numbers, you know, and Carmen is nowhere in this case.
16 She's just innuendo, a statement out there floating.

17 And if we can go to the next slide.

18 We talked about this whole issue about refreshing
19 recollection and everything like. We're basically saying, Do
20 you think this is an important detail? If you're raped, and
21 listen, I mean, that's hard but as long as law
22 enforcement officials, as agents, as responsible professionals,
23 you would probe a witness or a victim. Who else was there in
24 this? And you wouldn't do it horrible to them. You're with
25 social workers and help them in the system in leading you to

Summation - Hueston

1 the truth because you don't want perpetrators to be out there
2 to hurt people. The fact is that it's completely absent should
3 make you think. They're not derelict in their obligations, but
4 I do have a criticism. Because they had a witness on the stand
5 and they had those reports at the same time. And I thinks
6 that's a fair criticism.

7 Let's go to the next slide.

8 The whole thing of breaking up condoms on a kitchen
9 table. You can see she never said that before. Now, again, I
10 mentioned a minute ago about, like, in terms of he pressure you
11 felt and I'm going to go to this again is that there is a
12 pressure, but the pressure really is from the Government. I
13 mean, the reality is they are here at the Government's
14 agreement. That's a reality and it's uncomfortable, though,
15 that tension, but if they go off narrative, if they say things
16 that aren't going to help them for their asylum petition, then
17 they can't stay.

18 So let's go to how the Government tried to defend
19 itself on this point. The next slide. Thank you.

20 Now, Ms. Hajjar asked about being shown notes. Do you
21 remember that? Have you ever seen those before? I don't know.
22 I don't remember. Did you write those notes or those reports?
23 Do you know what the agents wrote down? I don't know. And did
24 you discuss topics? Obviously, topics that made you upset.
25 Just one of the things in terms of, like, the practice, like,

Summation - Hueston

1 if there's a witness on the stand who is coming to testify
2 witness, wouldn't you go over your notes with the witness?

3 (Continued on the next page.)

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Summation - Hueston

1 (In open court.)

2 MR. HUESTON: I mean, that's the whole point of taking
3 notes, unless -- or else they are useless. I mean that's why
4 you memorialize things, so you can use them in the future.
5 It's really simple.

6 So it sort of struck me as odd that that information
7 hadn't been discussed with her apparently or provided to her,
8 and it should make you uncomfortable; and it shows reasonable
9 doubt.

10 I mean, maybe they can answer the question. I don't
11 think they can, but you should demand that they answer that
12 question.

13 So if we can go to the last page. So I have talked
14 about some of them already, but, you know, I guess the last one
15 is do you think your memory gets better over time, and, of
16 course, it doesn't.

17 I'm sort of close to being finished. But I want to
18 talk to you, I want to show you something that really, I think,
19 you know, destroys Diana. I mean this is the narrative the
20 government is saying.

21 Diana got here in July or August, something,
22 July 2006. Right. And then Abel arrived, you know, we know
23 reality was three months later or something like that. That's
24 what she said earlier. I'm not saying reality, because that's
25 crediting her too much. We know she said that before.

Summation - Hueston

1 She says, oh, there was this time all the men were
2 bragging about who had the youngest girl and they are laughing
3 and they are drunk; and, it's funny, the government put in a
4 piece of evidence -- and, again, you've got to go into the
5 weeds to pull it out; that's what a defender does. It was the
6 records for Cristina Sanchez Sanchez, when she got arrested for
7 prostitution, because we really don't know how old she is. We
8 don't. We never heard from her. We know nothing about her.

9 So I'm trying to pull in pieces to help you think
10 about it. So if we can turn on the ELMO, because, again, he is
11 bragging -- and I want to lay the foundation -- Abel is
12 bragging that she is 14 or 15.

13 Now, let's look at this document. They put it in as
14 Government Exhibit 217. Do you see -- now, if we can do the
15 math, this is from July 2012. And you see the age. What's
16 that age? Twenty-four. Now you can do the math. 2006, maybe
17 18 or 17 -- I don't know, something. So we don't know exactly
18 when she ever came. We don't know her birthday. I don't know
19 if it's in January. I don't know if it's in February.

20 You certainly don't know. You can't make a decision
21 based on it. But I point it out to you because obviously Diana
22 is lying again, or else, you know, yeah, you have identity this
23 girl she is not; and on the New York City Police Department,
24 well, we put down any date. But I guess we really don't know,
25 but it's only the real guiding light you have. Remember, it's

Summation - Hueston

1 the clouds, it's the mist of trying to understand what is going
2 on. That's something that helps you understand.

3 So what I like about that, it's sort of here they are
4 using it as a weapon, and I have turned it against them, to
5 help you understand.

6 Because Ms. Argo said -- these are her words -- he
7 started making fun of them, saying I have the youngest one.
8 She is 14 or 15. Then she says, I think that's how old
9 Estephanie was at the time. Well, Ms. Argo, you have this
10 also.

11 I brought it out to you because that's what a defender
12 does. They had the document. Frankly, the argument shouldn't
13 have been made.

14 Just a couple other things I want to talk about as I
15 conclude.

16 There is one other thing that really, you know, I
17 really have to go after Diana because she is really their case.
18 I'm going to -- I want to show you something. It's sort of --
19 it's a risk, but that's what this job is.

20 You know, if you look at the wires, there is a very
21 interesting wire, and it really -- you have to get your head
22 around it, because evidently there is wires. If you look at
23 that report -- I think I can bring it up.

24 Okay. If we can have the screen back on. Thank you.
25 I hope I did it right. This is what's -- this is why,

Summation - Hueston

1 actually, I love being a lawyer. This is like Sherlock Holmes
2 type of stuff, CSI.

3 (Published.)

4 MR. HUESTON: If you look here at the date, if you see
5 the date there, February 20, 2006, for Cristina Sanchez Sanchez
6 wiring money from Queens to Mexico. And, if you can toggle
7 over, to Abel Romero-Melendez -- keep going -- who is in
8 Mexico.

9 I mean, I have proven that Diana lied. There is not
10 one doubt. She made all that up, because Estephanie, Cristina
11 Sanchez Sanchez, was evidently wiring money from Queens in
12 February 2006.

13 Now, it's a risk that I'm telling you this, but the
14 risk is simply that they are going to say, oh, this shows
15 something. We already know that she sent money to Abel. But,
16 again, he is not indicted for money laundering or distributing
17 proceeds.

18 We don't know their relationship. We don't know how
19 she arrived. We don't know her age. We know nothing about
20 her, except innuendo. And, oh, you think about this, though.
21 Here they put on a witness who said, oh, no, she came in July
22 of 2006. At the same time they have records that she was here
23 in February 2006. Answer that question. They can't. And if
24 they can't, you must acquit my client.

25 Now, I'm going to mention this. I don't know if you

Summation - Hueston

1 have read the book Les Miserables. There is Javert. Javert is
2 so focused, and that's why he is a great -- excuse me, not
3 Javert -- yes, Javert. He is great because he is a villain but
4 he doesn't know it. Because he lost sense of what he is
5 supposed to be doing.

6 I mean, these are documents that they have, but I'm
7 pointing them out to you. In their zeal -- I get it, you want
8 to stop something, you know, you want to send a message, you
9 want to hold people accountable. But you can't put on a case
10 against a man and say, oh, yes, he was -- a woman was brought
11 here in July 2006 when you know from your own analysis she was
12 wiring money in February 2006. That's not right. That's a
13 loss of -- you have lost yourself. You have lost yourself.

14 So, on behalf of my client, Abel Romero-Melendez, I
15 thank you for your time today. I don't -- this is difficult.
16 I would love to have a jury duty once, but when they hear I'm a
17 lawyer no one keeps me.

18 I know you are taking your obligation seriously, and I
19 ask for the only verdict you can give my client, that is not
20 guilty on counts one, two, three, and four. 18, yes, he is
21 guilty. But that's what beyond a reasonable doubt looks like.
22 He is here; he is guilty.

23 But you can't convict him on people who never
24 testified. You can't convict him on people who obviously have
25 made -- who have lied to you. It's wrong. Thank you.

USA v. Melendez-Rojas, et al.

1 THE COURT: I gather lunch is here, ladies and
2 gentlemen. Enjoy it.

3 THE CLERK: All rise.

4 (Jury exits.)

5 THE COURT: Okay.

6 MR. GOLD: What time, judge?

7 THE COURT: Be back at like 1:25, just in case they
8 eat fast. Is that okay, 1:25? You want the extra five
9 minutes?

10 (Lunch recess.)

11 (Continued on the next page.)

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USA v. Melendez-Rojas, et al.

1 A F T E R N O O N S E S S I O N

2 (In open court.)

3 (Defendants not present; jury not present.)

4 THE COURT: What I am considering and invite you to
5 tell me what you think is I think one of the three alternates
6 can't even stay tonight, but there are two who presumably can.

7 I am considering holding the alternates in the event
8 that we lose a juror. This is going to be keeping the
9 alternates in a separate place, bringing them in for any
10 readback, and advising them that if they ever replace a juror,
11 telling the jury to start deliberating again.

12 MR. HUGHES: That seems to make sense to me, judge,
13 especially with the health issue.

14 THE COURT: Exactly. Okay. So everybody is on board
15 with that?

16 MS. KELLMAN: Yes, judge.

17 (Defendants present.)

18 (Through the interpreter.)

19 THE COURT: When I read the jury charge does anybody
20 mind if I drop reading the indictment and drop reading the
21 statutes and just go right to the elements?

22 MS. HAJJAR: Yes.

23 MS. ARGO: We are fine with that.

24 MR GOLUB: No problem, judge.

25 MS. KELLMAN: That will save an hour.

Rebuttal - Hajjar

1 (Pause.)

2 THE CLERK: All rise.

3 (Jury enters.)

4 THE COURT: Please be seated. Ms. Hajjar.

5 MS. HAJJAR: Thank you.

6 Good afternoon. As you heard, because the government
7 bears the burden of proof in this case, we have one last
8 opportunity to have the final word. I'm going to try to move
9 efficiently and address as many of defense counsel's arguments
10 that you heard yesterday afternoon and this morning.

11 Now, over the past two weeks, you heard clear,
12 straightforward, overwhelming evidence as to every charge,
13 which you heard about in detail in the government's closing
14 argument. Evidence beyond a reasonable doubt as to each and
15 every count and each and every defendant. What you heard from
16 defense counsel, both yesterday and today, was really an
17 attempt to distract you from that evidence, distract you from
18 the powerful testimony that you heard.

19 In fact, some of the arguments that defense counsel
20 made really doubled down on what the defendants told the
21 victims when they were abusing them. No one will believe you.
22 That's what the defendants said: No one will believe you if
23 you go to the police. You don't have any proof. That's what
24 the defendants said to Delia. That's what the defendants said
25 to Daisy. That's what they said to Maria.

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Rebuttal - Hajjar

1 You heard these women testify about their lives,
2 living in Queens in forced prostitution; that they had sex with
3 men who were twice their age, 15, 20 men per shift, how they
4 were beaten, how they were raped, how they gave all their money
5 to the defendants. The truth came out at this trial. The
6 defendants, the Melendez-Rojas family, trafficked women by
7 smuggling them into the United States and forcing them to work
8 as prostitutes.

9 Now, the defendants in this case, they don't want you
10 to listen to what the victims have to say. They want you to
11 ignore what you heard from the witness stand. And the defense
12 that was presented in this case really boils down to what the
13 defendants said day in and day out, no one is going to believe
14 you.

15 But that's not the case you heard over the past two
16 weeks. You heard these women in their own voices, and we know
17 you listened carefully to the voices of these victims. We know
18 you listened carefully to all the evidence in this case, and we
19 appreciate that; and now you get to make the decision about
20 whether you are going to believe these women, whether you are
21 going to hold the defendants accountable for what they did.
22 You get to make that choice.

23 Now, as I said and as defense counsel has said, they
24 have no burden. The burden rests solely on us, the government,
25 and we welcome that burden. But that doesn't mean you have to

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Rebuttal - Hajjar

1 accept defense counsel's arguments to you, that you accept
2 their suggestions to you, you accept their invitations. You
3 have to evaluate that against the actual evidence in the case,
4 which is the sworn testimony of the victims and the witnesses
5 that you heard and all of the other evidence that was admitted
6 in this case.

7 Now, defense counsel, they are all experienced and
8 they are all competent lawyers. But you have to ask
9 yourselves: What am I really being asked to do? Because
10 defense counsel, they want you to believe that Maria, that
11 Daisy, that Delia, that Fabiola, that Veronica, they were all
12 working in prostitution voluntarily, they wanted to stay here
13 and they wanted to work in prostitution and they chose that
14 life for themselves and New York was a wonderful land of
15 opportunity for them.

16 To hear defense counsel describe it, it's like we
17 haven't been in the same courtroom at all. The arguments
18 completely ignore the actual testimony that you heard in this
19 case. Because you heard from Maria, and you heard what she
20 said about the first night she was working in prostitution, how
21 she had sex with over 30 men, how disgusted she felt, how she
22 wanted to run away, and how Jose Osvaldo told her that that was
23 a good first time for her and she would have to do it again the
24 next day. It's on page 465 of the trial transcript.

25 Fabiola testified about Rosario threatening her and

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Rebuttal - Hajjar

1 threatening her family; and you heard the same from Delia, you
2 heard the same from Daisy, from Veronica, and from Diana. The
3 threats, the violence, the beatings, the rapes. The testimony
4 was crystal clear. The defendants forced these women to work
5 in prostitution, and they worked together to make it happen.

6 Now, defense counsel, they want you to ignore the
7 evidence and, in doing so, they have made a lot of arguments to
8 you that puts the blame on the victims. Daisy, Veronica,
9 Maria, Delia, Fabiola, they should have known better. They
10 couldn't have possibly wanted any other lives for themselves.
11 They knew what they were getting into; that these women chose
12 to do this, and the defendants had nothing to do with it.

13 Mr. Gold even described Delia as a businesswoman and
14 his client as a baby. She made all the decisions. It was all
15 her choice.

16 And you should reject these arguments. I'm not going
17 to go through every single one, but I do want to highlight a
18 few of them. If I could use the ELMO.

19 Because Mr. Golub yesterday spoke about Maria, and he
20 told you she was lying; and he referenced a portion of her
21 cross-examination that he said illustrated when Maria's sad
22 story fell apart, I think is the phrasing he used. So I want
23 to look at that portion of Maria's cross-examination.

24 This is at transcript 552 to 553.

25 Line 5, on 552: Okay. So he wanted you to work out

Rebuttal - Hajjar

1 and he also wanted you to eat healthy; is that correct.

2 Answer: He would tell me what to eat because he
3 didn't want me to be ugly and fat.

4 A little further on, line 25: Now, did you share a
5 bed with him every night?

6 Answer: Yes.

7 Question: And you had regular sexual, regular sexual
8 relations; is that correct?

9 Answer: We had sex. It wasn't always when I wanted
10 to.

11 Question: But it wasn't as though he said, I'm
12 repelled by you and never had sex with you and he kicked you
13 out of the bed and said sleep on the floor, nothing like that
14 ever happened; is that correct?

15 Answer: When we slept in the same bed he would make
16 me. He would force me to take off my clothes. He wanted to
17 have sex with me. He didn't let me sleep on the floor.

18 Question: Okay. So it doesn't sound like somebody
19 that was repelled by your appearance, if he wanted to take your
20 clothes off so he can see you naked and have sex with you.
21 Would you agree with me?

22 Answer: He just wanted to have sex.

23 I just want to remind you, members of the jury, that
24 this is the actual testimony that Mr. Golub is relying on when
25 he says that Maria's story fell apart, fell apart on probing,

Rebuttal - Hajjar

1 fell apart when he was cross examining her. And I ask you to
2 look at the actual testimony in this case, the actual evidence,
3 because that's what you have to rely on when you are making
4 your deliberations, the actual evidence.

5 Just because a lawyer says it, doesn't make it so.
6 That goes for me too, which is why I'm showing you portions of
7 this testimony, showing you what the victims actually said.

8 Now, I want to just show you one other example,
9 Mr. Dunn's cross-examination of Fabiola. This is a theme that
10 came up again and again in this case. This is at transcript
11 684 and 685, the bottom line 18.

12 Question: You saw a lot of clients, right?

13 Answer: Yes.

14 Question: You said you saw anywhere from 15 to 30
15 clients a day; is that right?

16 Answer: Yes.

17 Question: And you worked every day of every month
18 that you were there, correct?

19 Answer: Yes.

20 Of all these people that you saw, were there ever any
21 nice men that happened to be clients? Did you ever see or meet
22 any nice men that were clients?

23 Now, at this portion of the cross-examination, members
24 of the jury, Fabiola had already testified that a client had
25 bit out a piece of her flesh from her cheek, she already

Rebuttal - Hajjar

1 testified that she was raped at gunpoint by a client, she had
2 already testified that she had been choked so hard that the
3 neighbors had to break down the door to get her away from a
4 client who was choking her.

5 So the suggestion by defense counsel that she should
6 or could have turned to one of these men, these clients, for
7 help is completely out of touch. It doesn't make any sense,
8 and it's belied by everything you saw and heard about what
9 these women had to go through, who these men really were and
10 what they did to them.

11 And you heard again and again defense counsel suggest
12 to you, as Mr. Gold did again this morning, that these women
13 had opportunities to escape or go to the police. And because
14 you heard it so often I'm going to address that as best I can.

15 Because I want to make one thing clear at the outset.
16 You will hear Judge Ross instruct you on the law, but I expect
17 that you can read the jury instruction on sex trafficking all
18 day and all night and you won't see any mention of opportunity
19 to escape. That's not an element of the crime. It does not
20 matter when and if the victims were able to escape and how they
21 did so. It just is irrelevant to your consideration of that
22 question.

23 But you did hear about their attempts to escape, and
24 you heard what happened to them when they did. You heard from
25 Diana, who told you she tried to escape many times and what

Rebuttal - Hajjar

1 happened to her when she failed, when she was brought back,
2 that she was brutally beaten and raped in front of the other
3 members of that household. And you heard from Delia, that she
4 did go to the police and she did give them her notebooks.

5 And all of this mention of the police, again and
6 again -- Mr. Gold brought it up again this morning -- use your
7 common sense. Is it really any surprise to any of you that a
8 young woman, alone in the United States, isolated from her
9 family, who doesn't speak English, is told that she can't trust
10 the police, is told that she is going to be arrested and
11 deported?

12 Is it really any surprise to any of you that she
13 wouldn't go to her local NYPD precinct and say -- and ask for
14 help and report what was happening to her? Of course not.

15 And you heard Maria's testimony that the police in
16 Mexico were corrupt; that the government was corrupt. She
17 didn't trust them. Of course these women didn't believe the
18 police would help them. But, more importantly than that, just
19 because someone is afraid, just because someone doesn't trust
20 the police, and just because someone doesn't have the strength
21 to ask for help or the ability, doesn't mean they are not
22 worthy of your belief.

23 Because that was the defendants' plan all along.
24 That's how they made these women feel -- that they couldn't go
25 for help; that they didn't have any support; that they couldn't

Rebuttal - Hajjar

1 turn to their families -- through threats and through fear, and
2 that's why it worked for so long. You heard six victim
3 witnesses testify about conduct that spanned over ten years.
4 It worked because they were terrified.

5 I'm going to address some of Mr. Hueston's arguments
6 today concerning Abel Romero-Melendez. Now, Mr. Hueston
7 mentioned that, and he talked a lot about the crimes that Abel
8 is not charged with. But it is your job to focus on the crimes
9 with which he is charged; and he is charged, among other
10 crimes, with conspiracy to commit sex trafficking, sex
11 trafficking of a minor, conspiracy to transport minors to
12 engage in prostitutions, and sex trafficking of Diana. And he
13 is every bit as guilty of those crimes as his codefendants are.

14 Now, Diana, you heard from her. She had trouble
15 testifying. It was very painful for her, I think quite
16 obviously. She testified when she first arrived, she lived in
17 an apartment on Martense Avenue in Queens with Karina, who
18 worked for Rosalio and Magdaleno. And sometime after that, she
19 testified, Abel and Cristina arrived at the apartment and began
20 to live with them.

21 Now, Mr. Hueston mentioned there was a wire record
22 that showed that Cristina Sanchez Sanchez, the person that
23 Diana knew as Estephanie, sent Abel money at some time prior to
24 that. So, in other words, sent money from the United States to
25 Mexico in February 2006. That's not inconsistent with Diana's

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1 testimony at all.

2 All she said was at some time after her arrival Abel
3 and Cristina started to live with them. And she knew that
4 prior to that Abel had been in Mexico; and so the -- the fact
5 that Cristina sent money to Abel in Mexico is entirely
6 consistent with what she testified to. There is no
7 inconsistency there.

8 Now, Diana also testified that Abel participated in
9 everything that happened at that house, everything that
10 happened on Martense Avenue. He was there counting condoms, he
11 was there taking money, he was there when Diana was punished
12 for, as she said, doing the wrong thing. She was punished by
13 being beaten and punished by being raped.

14 I want to remind you of some of that testimony. This
15 is on page 1264. Diana described Estephanie to the jury, the
16 woman described as Cristina Sanchez Sanchez, and she describes
17 her as very young, very quite; and, at one point, she testified
18 that she saw Cristina very upset, she was sobbing.

19 This is the next page, 1265. She didn't want to go.
20 Diana testified she was crying a lot, and later that day, she
21 said, I saw Abel breaking up the packets of condoms and putting
22 them into just one.

23 Is that similar to the way Karina this packed them and
24 showed you how to pack them?

25 Diana replied: Yes. She looked sad to me.

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1 Now, Mr. Hueston spoke a lot about purported
2 inconsistencies about the timing of Abel's arrival in the
3 United States and when the rape that Diana described occurred;
4 but he didn't show you the redirect on this point. This is on
5 page 1342. She was very clear.

6 Diana, you testified earlier today about a rape that
7 occurred in front of other people you were living with. Do you
8 remember that?

9 Answer: Yes.

10 Question: Did it happen before or after Abel arrived
11 in the United States?

12 Answer: That was after Abel arrived.

13 Question: Was it just once, or were there several
14 occasions where you were raped?

15 It was several times.

16 Abel participated in everything that went on in that
17 house. And why? Why? Why did this happen? Why was she raped
18 in front of Karina and Estephanie? To show them what happens
19 if they tried to escape, if they hid money, if they did any of
20 the things that Diana was punished for.

21 Abel was Miguel and Rosalio's younger cousin, their
22 protege. He was learning what to do to the women that he
23 brought in, and you heard about Cristina Sanchez Sanchez and
24 you heard about her working for the defendant. You heard
25 testimony from multiple witnesses about her working for Abel in

1 Rebuttal - Hajjar

2 the years that followed. Because he followed in their
3 footsteps. He did the same things that he was taught to do.

4 Now, Mr. Hueston described this as the Diana gambit,
5 that Diana was lying, he says. Ask yourself: What possible
6 motive did Diana have to lie to you? Defense counsel wants you
7 to believe that these women were master manipulators; that they
8 all got on the witness stand and lied to you; that their
9 testimony was manufactured. But you saw them testify with your
own eyes, you saw their demeanor.

10 And think about what it takes to do that: To come
11 into this big, grand courtroom and to testify about the
12 absolute worst moments in your life; the times you were taken
13 advantage of, sexually, emotionally, physically; about the
14 times you were tricked or duped into having abortions. Think
15 about the courage that it takes to do something like that. Not
16 only to do that, but then to be asked questions aggressively by
17 defense counsel about these worse moments, these horrible
18 moments, and ask yourself if they are doing it because they
19 think they are getting something from the government.

20 The witnesses told you. Maria, Delia, Daisy,
21 Veronica, Fabiola, they all told you they haven't been promised
22 a visa. They haven't been promised anything.

23 Defense counsel keeps mentioning asylum. At least
24 three defense counsel mentioned asylum. Look at the
25 transcripts. The word "asylum" doesn't come up once. It comes

Rebuttal - Hajjar

1 in a cross-examination of a witness, in which the witness said
2 no to do you ever apply for asylum. There is no evidence in
3 the record that this is a benefit that these victims were
4 receiving from government.

5 Daisy told you why she was testifying. She told you.
6 She said she wanted to tell you what happened so other people
7 wouldn't have to suffer what she went through.

8 Veronica, you heard from her yesterday. As
9 Ms. Kellman said, she is spunky. You heard what she said in
10 response to that question, and this is on page 1444 and 1445.

11 I am talking about this because of what was done to
12 me, not because of the documents, ma'am. Even if I had to go
13 back to Mexico so that Miguel and his family pay for what they
14 did to me, I would do it anyway.

15 I'm going to move to some of the arguments that
16 Mr. Gold made this morning. Now, Mr. Gold spent a lot of time
17 on Delia, and it's true that Delia struggled to remember some
18 details of her life with the defendants.

19 I want to point you to an early portion of Mr. Gold's
20 cross-examination of Delia. This is where the
21 cross-examination begins. The transcript is page 866. This is
22 where cross-examination begins; and, early on, on page 874, he
23 asked Delia the following questions.

24 Now, you indicated that your home life prior to
25 meeting Francisco, that your home life was pretty awful,

Rebuttal - Hajjar

1 correct?

2 That's correct.

3 You had been raped by your father and by your uncle?

4 That's correct.

5 And, in fact, you ran away from them?

6 Yes.

7 It goes on. The next page, 875.

8 Now, the very first night you spent when you went back
9 with him to his family, he raped you, didn't he?

10 Answer: Well, we had sex that night, but he did
11 something that I didn't want.

12 Question: And you told him you didn't want.

13 Answer: Yes, that's correct.

14 Question: And he forced you to do?

15 Answer: Exactly.

16 Question: That's rape, isn't it?

17 Answer: Yes.

18 And after the first night that he raped you, the
19 following morning, did you go to his mother and say, hey, your
20 son just raped me?

21 Answer: I didn't say anything to her.

22 Question: In fact, you didn't say anything to
23 anybody, did you?

24 Answer: Who was I go to tell? I didn't tell anybody
25 then.

Rebuttal - Hajjar

1 The bottom of this page, Mr. Gold asks her why she
2 didn't run out in the street screaming, arrest this man, he
3 raped me.

4 At the time your father and your uncle raped you, did
5 you know you were being raped then?

6 I didn't know that.

7 Now, everyone responds to cross-examination
8 differently and responds to stress differently, and you know
9 that from your common sense and you know that because you saw
10 the victims on the witness stand answer questions differently.
11 You saw that some of these women were able to talk about these
12 traumatic moments and some, like Diana, struggled. They
13 struggled to speak openly about what had happened to them,
14 these moments of trauma.

15 And that's because these people are human beings.
16 They are being cross examined about the worst moments in their
17 lives. And what Delia was being asked to talk about right
18 away, right off the bat, is whether she knew she was being
19 raped by her father and her uncle as a child. It's not
20 surprising that Delia had a hard time remembering the details
21 of her life living in Queens with Francisco. It's not
22 surprising at all.

23 Delia was very clear, though, about what she did
24 remember: What she was doing working as a prostitute and who
25 she was doing it for, Francisco, who was following in his

Rebuttal - Hajjar

1 uncle's footsteps. She remembered being abused, she remembered
2 being afraid, she remembered being forced to engage in
3 prostitution again and again and again.

4 How do you know she is telling the truth? Because her
5 testimony is corroborated by the physical evidence and the
6 other testimony that you heard.

7 You heard from Daisy. Daisy lived with Delia, and
8 Daisy testified that Delia worked as a prostitute for Francisco
9 and Francisco kept telling her that she didn't bring him enough
10 money; and she also testified that Delia appears to be 16 or 17
11 years old. That's on pages 231 and 261 of the transcript.

12 Maria also testified about how Francisco recruited
13 Delia. Fabiola lived with Delia too, and Fabiola also said
14 that Delia worked in prostitution for Francisco and she was
15 about 16 years old at the time. That's the transcript 708 --
16 709.

17 Veronica. Mr. Gold made a lot about this. He said
18 that she only knew her as Katerina and by no other name, and
19 that's somehow suggests that this was all made up because Delia
20 didn't give her her real name.

21 (Continued on the next page.)

Rebuttal - Hajjar

1 (In open court.)

2 MS. HAJJAR: First of all, if wasn't Katerina, it was
3 Catherine. And the reason why she gave her the name Catherine
4 is established by many of the other victim witnesses in this
5 case. That was her work name, that was the name she gave when
6 she was working in prostitution, Catherine. That's what the
7 other witnesses knew her by, so it's perfectly consistent with
8 their testimony. It only underscores, it doesn't undermine,
9 what Delia told you. These witnesses, they're all different
10 women. They're all testifying independently, but they're
11 testifying consistently about the same events taking place over
12 years. Where they lived, who they lived with, who they worked
13 for. And why? Because that's the thing about the truth: It's
14 simple, it fits together, it's consistent. All of these
15 witnesses told you that Delia was working in prostitution for
16 Francisco because that's what happened. That's the truth.

17 And I just want to address one other thing as it
18 relates to both Count Ten and Count Four. So that's the sex
19 trafficking of Delia and the sex trafficking of Diana. You
20 heard more than sufficient proof that Diana and Delia were
21 forced to work in prostitution. I'm not going to back and
22 explain and show you all the testimony all over again. You
23 heard it in detail in my colleague's closing argument.

24 But what I want to highlight is that for these counts,
25 the Government does not have to prove the defendants actually

Rebuttal - Hajjar

1 used force, fraud, or coercion to make Diana or Delia work in
2 prostitution. All that's required is that they knew, or in the
3 case of Delia, they recklessly disregarded how old she was.
4 And that's because a minor cannot consent to be prostituted,
5 cannot consent to be sexually exploited.

6 And these facts, these elements were effectively
7 conceded by Mr. Gold in his summation. He conceded Delia was
8 14. He concede Delia was working as a prostitute. He conceded
9 that Francisco made money off of her and she sent that money to
10 his family. He even conceded that Francisco hit her.

11 Now, Mr. Gold showed you wire summary charts and he
12 asked, Well, why isn't it in the chart that because Delia
13 started working in October 2010 he said why aren't there any,
14 you know, wire transfer records reflecting payments to Mexico?
15 First of all, she started working in October of 2010, late in
16 that year, but also who is paying the rent? Who is buying the
17 designer clothes that Francisco is wearing? Who is buying the
18 food? There's only one breadwinner in this household, and the
19 breadwinner was Delia, Francisco was not making any income.
20 And yet, I really urge you to look at the wire transfer records
21 because Francisco is sending thousands of dollars to Mexico.
22 And where is that money coming from? It's off the back of
23 Delia. It's what she's doing, it's her work that's generating
24 money. It's that money that's being sent to Mexico. She's the
25 only breadwinner there.

Rebuttal - Hajjar

1 Now, I'm going to just briefly address reasonable
2 doubt because it was emphasized by all defense counsel in their
3 closings. And you'll hear Judge Ross instruct you on that
4 standard. It's reasonable doubt, it's the same burden of proof
5 that's used in every criminal trial in this district in the
6 country. And that's why we didn't just call one witness, two
7 witnesses, three witnesses, four witnesses. You heard from six
8 victim witnesses and their testimony was consistent with each
9 other. And it was consistent with the wire records, the border
10 crossing records, and the physical evidence that you saw in
11 this case. We presented all of this evidence to you so you can
12 be confident in your decision because we've met that burden
13 here.

14 This case is about the victims. It's about the women
15 that you heard from. It's about their courage coming in here
16 and telling you a group of strangers, about the horrible things
17 that happened to them. The victims have been waiting years for
18 this day to finally have their voices heard so their suffering
19 wouldn't be in vain. Many of them were upset on the witness
20 stand and it was difficult testimony to listen to. But as hard
21 as it was for them, as hard it was for us, it was worse for
22 them. It was worse for them to relive and to experience on the
23 witness stand.

24 Very soon this case is going to be in your hands. I'm
25 almost done talking and I'm going sit down in a moment, and

Rebuttal - Hajjar

1 before I do that I want to thank you for paying such close
2 attention to the evidence in this case. Every case is
3 important but not every case is hard and not every case is
4 close. This isn't a close case.

5 The Melendez-Rojas family, the defendants you see
6 before you. They smuggled women into this country. They
7 worked together to force them to work as prostitutes and they
8 profited off of them. It was all for their benefit and their
9 family's benefit. And now, it's time for you to hold these
10 defendants accountable for what they did; for the pain they
11 caused and the damage they did to these women who will be
12 holding that with them for the rest of their lives. Find them
13 guilty because it's what the evidence shows and find them
14 guilty because it's what justice demands.

15 Thank you.

16 THE COURT: Ladies and gentlemen, now that the
17 evidence in the case has been presented and the attorneys for
18 the Government and for the defendants have concluded their
19 closing arguments, it's my responsibility to instruct you as to
20 the law that governs the case. My instructions will be in
21 three parts.

22 First, I will instruct you regarding the general rules
23 that define and govern the duties of the jury in a criminal
24 case.

25 Second, I'll instruct you as to the legal elements of

Jury Charge

1 the crimes charged in the indictment -- that is, the specific
2 elements that the Government must prove beyond a reasonable
3 doubt for you to find a defendant guilty.

4 Third, I will instruct you as to some general rules
5 regarding your deliberations following these instructions.

6 To begin with, as you know, it is your duty to find
7 the facts from all the evidence in the case. You are the sole
8 judges of the facts. It is for you and you alone to pass upon
9 the weight of the evidence, to resolve such conflicts as may
10 have appeared in the evidence, and to draw such inferences as
11 you deem to be reasonable and warranted from the evidence.
12 With respect to any question concerning the facts, it is your
13 recollection of the evidence that controls.

14 You must apply the law in accordance with my
15 instructions to the facts as you find them. While the lawyers
16 may have commented on some rules of law, you must be guided
17 only by what I instruct you about the law. You should not be
18 concerned about the wisdom of any rule of law that I state
19 regardless of any opinion you may have about what the law may
20 be -- or should be -- it would be a violation of your oaths as
21 jurors to base your verdict upon any other view of the law
22 other than the one given to you in these instructions.

23 As I've said, the fact that the prosecution is brought
24 in the name of the United States government does not entitle
25 the Government to any greater consideration than the

Jury Charge

1 defendants. By the same token, the Government is entitled to
2 no less consideration. The parties -- the Government, and the
3 defendants -- are equal before this court, and they're entitled
4 to equal consideration. Neither the Government nor the
5 defendants are entitled to any sympathy or favor.

6 The indictment as I have said filed against these
7 defendants is the means by which the government gave notice to
8 the defendants of the charges against them and brought them
9 before the Court. The indictment is an accusation and nothing
10 more. The indictment is not evidence. You are to give to no
11 weight in arriving at your verdict. The defendants, in
12 response to the indictment, pleaded "not guilty." A defendant
13 is presumed to be innocent unless the Government proves his
14 guilt beyond a reasonable doubt. That presumption alone,
15 unless overcome, is sufficient to acquit a defendant. That
16 presumption is overcome only if you, the jury, decide
17 unanimously that the Government has proven a defendant guilty
18 beyond a reasonable doubt.

19 Since the law presumes a defendant to be innocent, the
20 burden of proving a defendant's guilt beyond a reasonable doubt
21 is on the Government throughout the trial. A defendant never
22 has the burden of proving his innocence or producing any
23 evidence at all. If the Government does not meet its burden of
24 proving beyond a reasonable doubt that a defendant is guilty,
25 you must find that defendant not guilty.

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1 Proof "beyond a reasonable doubt" does not mean proof
2 beyond all doubt. It is not necessary for the Government to
3 prove the guilt of a defendant beyond all possible doubt. The
4 test is one of reasonable doubt.

5 A reasonable doubt is a doubt based upon reason and
6 common sense. The kind of doubt that would make a reasonable
7 person hesitate to act. Proof beyond a reasonable doubt must
8 therefore be proof of such a convincing character that a
9 reasonable person would not hesitate to rely on and act upon it
10 in the most important of his or her own affairs. A reasonable
11 doubt, however, is not a doubt that arises out of whim or
12 speculation. A reasonable doubt is not an excuse to avoid the
13 performance of an unpleasant duty.

14 If, after a fair and impartial consideration of all
15 the evidence in the case, you can honestly say you have such a
16 doubt based on all the evidence or lack of evidence in the case
17 as would cause prudent persons to hesitate to act in matters of
18 importance in their own lives then you have a reasonable doubt.
19 In that event, it is your duty to acquit the defendant.

20 If, on the other hand, after a fair and impartial
21 consideration of the evidence, you can honestly say that you
22 have such an abiding belief in the guilt of a defendant that
23 you would be willing to act upon a similarly strong conviction
24 in the most important matters of your own lives then you have
25 no reasonable doubt, and, in that circumstance, you should

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1 convict.

2 I'll now instruct you as to what evidence is and how
3 you should consider it. The evidence which you are to consider
4 in deciding the facts in this case comes in several forms:

5 Sworn testimony of witnesses, both on direct and
6 cross-examination regardless of who called the witness is
7 evidence.

8 Exhibits that have been received into evidence by the
9 Court are evidence.

10 Facts to which the lawyers have agreed or stipulated
11 are evidence. A stipulation is an agreement among the parties
12 that a certain fact is true. You should regard such agreed
13 facts as true.

14 You've also heard evidence concerning a variety of
15 investigative techniques including evidence recovered from a
16 search which occurred during the course of the Government's
17 investigation of the case. The search was lawful, and the law
18 enforcement officers who conducted the search acted in
19 accordance with the law. I instruct you that any evidence
20 presented to you was obtained legally and can be considered by
21 you.

22 Certain things were not evidence and are to be
23 disregarded by you in deciding the facts:

24 Arguments or statements by lawyers are not evidence.

25 Questions put to the witness is not evidence.

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1 Objections to questions or offered exhibits are not
2 evidence. In this regard, I instruct you that the attorneys
3 have a duty to their clients to object when they believe
4 evidence should not be received. Therefore, you should not be
5 influenced by the objection or by the Court's ruling on it. If
6 the objection was sustained, ignore the question and any answer
7 that followed. If the objection was overruled, treat the
8 answer like any other answer.

9 Obviously, anything that you may have seen or heard
10 outside this courtroom is not evidence.

11 Nothing I have said or done should be used by you in
12 inferring innocence or guilt. I have no view of the guilt or
13 innocence of the defendants.

14 There are, generally speaking, two types of evidence
15 from which you may properly find the truth of the facts. One
16 is direct evidence such as the testimony of an eyewitness who
17 saw the event firsthand, or directly. The other is indirect or
18 circumstantial evidence. This is the proof of a chain of
19 circumstance pointing to the existence or nonexistence of
20 certain facts.

21 A simple example of circumstantial evidence would be
22 the following: If you came into court on a bright sunny day
23 and then, After several hours in a courtroom with the window
24 shades drawn, you saw people entering, one wearing a wet
25 raincoat and the next shaking a wet umbrella, you might infer

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1 from those circumstances without going outside or even look at
2 out at window, that it had rained while you were here in court.
3 You would have no direct evidence, but you might reasonably
4 infer that it had rained. This is not speculation or a guess,
5 this is an inference based on evidence.

6 So in a trial, you are permitted to draw, from facts
7 you find to have been proven, such reasonable inferences or
8 conclusions as seem justified in light of your experience and
9 common sense. The law makes no distinction between direct and
10 circumstantial evidence. You may have consider both. What the
11 law does require is that, before a defendant is convicted of a
12 crime, the jury be satisfied of his guilt beyond a reasonable
13 doubt based on its assessment of all the evidence in the case.

14 You've heard evidence about the involvement of certain
15 other people in the crimes charged. You may not draw any
16 inference, favorable or unfavorable, towards the Government or
17 the defendants from the fact that other persons are not on
18 trial before you. That these other individuals are not on
19 trial is not your concern. You should neither speculate as to
20 the reason these people are not on trial before you nor allow
21 their absence as parties to influence in any way your
22 deliberations in the case. Your concern is solely with the
23 defendants on trial.

24 Your verdict must be based solely upon the evidence
25 developed at trial, or lack of evidence. It would be improper

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1 for you to consider, in reaching your decision as to whether
2 the Government sustained its burden of proof, any sympathy or
3 favor for one side or the other or any personal feelings that
4 you may have about the defendants' race, religion, national
5 origin, ethnic background, gender or age.

6 (Continued on the next page.)

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Jury Charge

1 (In open court.)

2 THE COURT (CONTINUING): All persons are entitled to
3 the presumption of innocence.

4 It's equally improper for you to allow any feelings
5 that you might have about the nature of the crimes charged to
6 interfere with your decision-making process. To repeat, your
7 verdict must be based exclusively upon the evidence or lack of
8 evidence relating to the crimes charged in the case.

9 The question of possible punishment is of no concern
10 to the jury, and it should not in any sense enter into or
11 influence your deliberations. The duty of imposing sentence
12 rests exclusively upon the Court. Your function is to weigh
13 the evidence in the case and determine solely upon the basis of
14 the evidence whether or not a defendant is guilty beyond a
15 reasonable doubt of the crimes charged against him not
16 indictment.

17 You're heard testimony of several witnesses and
18 watched the introduction of other evidence. The fact that one
19 party called more witnesses and introduced more evidence than
20 another does not mean that you should necessarily find facts in
21 favor of the side offering the most witnesses.

22 There are several persons whose names you have heard
23 during the course of the trial but who did not appear here to
24 testify. I instruct you that each party has an equal
25 opportunity or lack of opportunity to call any of these

Jury Charge

1 witnesses. Therefore, you should not draw any inference or
2 reach any conclusion as to what they would have testified to
3 had they been called. Their absence should not affect your
4 judgment in any way. You should, however, also remember my
5 instruction that the law does not impose on a defendant in a
6 criminal case the burden or duty of calling any witnesses or
7 producing any evidence.

8 Additionally, the law does not require that all things
9 mentioned during the course of the trial be produced as
10 exhibits. The law further does not require that any particular
11 investigative technique be used by law enforcement authorities
12 to uncover and prosecute crime. Law enforcement techniques are
13 not your concern. Your concern is to determine whether or not,
14 based upon all the evidence or lack of evidence presented in
15 the case, the Government has proven that a defendant is guilty
16 beyond a reasonable doubt.

17 There was testimony at trial that the attorneys for
18 the Government interviewed witnesses when preparing them for
19 trial. You should not draw any unfavorable inference from that
20 testimony. To the contrary, the attorneys for both sides were
21 obliged to prepare this case as thoroughly as possible and
22 would have been derelict in the performance of their duties if
23 they had failed to interview witnesses before the trial began.

24 As I mentioned earlier, you are the sole judges of the
25 credibility of the witness and the weight that the testimony

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1 deserves. In determining whether a witness speaks the truth,
2 you may consider the appearance and conduct of the witness, the
3 manner in which the witness testified, the character of the
4 testimony given, and any evidence contrary to the testimony
5 given. You should carefully scrutinize all of the testimony
6 given, the circumstances under which each witness has
7 testified, and any other matter in evidence which tends to
8 indicate whether to believe a witness. Consider each witness's
9 bias, prejudice, hostility, interest, and partisanship with
10 respect to the prosecute or defense of the case and the
11 witness's demeanor while on the stand.

12 Inconsistencies or discrepancies in the testimony of a
13 witness or between the testimony of different witnesses may or
14 may not cause you to discredit the witness's testimony. Two or
15 more persons witnessing an incident or a transaction may see or
16 hear it differently. An innocent misrecollection, like failure
17 of recollection, is not uncommon. In weighting the effect of
18 the discrepancy, consider whether it pertains to a matter of
19 importance or to an unimportant detail and whether it results
20 from innocent error on the one hand, or intentional falsehood
21 on the other.

22 The testimony of a witness may be discredited by
23 showing that the witness previously made statements which are
24 inconsistent with the witness's present testimony. It is your
25 job to determine the weight, if any, to be given all or part of

Jury Charge

1 the testimony of a witness who has been impeached by such
2 statements. If you find that a witness made such a statement,
3 you may consider that in your assessment of the witness's
4 credibility. In other words, you may consider whether or not
5 you believe the witness or except his or her testimony at trial
6 in light of the prior statement. In making this determination,
7 you should consider the importance of the matter to which the
8 statement related. If you find that the matter was relatively
9 trivial, you may decide not to attach much significance to the
10 inconsistency.

11 On the other hand, if the matter to which the prior
12 inconsistent statement related is important, you may decide to
13 cast a substantial doubt on the witness's credibility. You may
14 also consider whether the witness had an explanation for the
15 inconsistency, and whether that explanation appealed to your
16 common sense.

17 Defendants have elected not to testify in this case.
18 Under our constitution, a defendant in a criminal cause has no
19 obligation to testify or present any evidence because as I have
20 discussed, it is the Government's burden to prove his guilt
21 beyond a reasonable doubt. A defendant is never required to
22 prove his innocence, nor is he required to prove any evidence
23 at all. You may not draw any adverse inference against a
24 defendant because he did not take the witness stand. You must
25 not consider this fact in any way during the course of your

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1 deliberations.

2 In this case, you have heard the testimony of law
3 enforcement agents. The testimony of these witnesses should be
4 evaluated in the same way as the testimony of any other
5 witness. The fact that a witness is in law enforcement does
6 not justify affording that witness's testimony any more or less
7 credence than the testimony of any other person. You should
8 evaluate the testimony of law enforcement witnesses not same
9 manner as you would the testimony of any other witness using
10 all of the tests of credibility as I have discussed with you.
11 It is your decision after review of all of the evidence whether
12 to accept the testimony of a law enforcement witness and to
13 give it whatever weight, if any, it deserves.

14 In this case the Government has introduced what are
15 known as demonstrative exhibits, which include charts,
16 diagrams, and the like. These demonstratives exhibits were
17 shown to you in order to make the other evidence more
18 meaningful and to aid you in considering the evidence. They
19 are no better than the testimony or the documents upon which
20 they are based and are not themselves independent evidence.
21 Therefore, you are to give no greater consideration to these
22 demonstrative exhibits than you would give to the evidence upon
23 which they are based. It is for you to decide whether these
24 exhibits correctly present the information contained from the
25 testimony of the exhibits on which they are based. You are

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1 entitled to consider these demonstrative exhibits if you find
2 they are of assistance to you in analyzing and understanding
3 the evidence.

4 The defendants are formally charged in the superseding
5 indictment, which I will simply call "the indictment." As I
6 instructed you at the beginning of this case, an indictment is
7 a charge or accusation. The indictment in this case contains
8 16 separate counts. You will be called upon to render a
9 separate verdict on each count as to each defendant. You must
10 consider each count separately as to each defendant who is
11 charged in it, and must return a verdict based only upon the
12 evidence as it relates to that specific count and that specific
13 defendant. Whether you find a defendant guilty or not guilty
14 as to one count, should not affect your verdict as to any of
15 the other charged counts.

16 Before I explain the elements of the charge, I have
17 already noted that the indictment alleges certain acts occurred
18 in and about and between certain dates. If the indictment
19 charges that a specific act occurred on a certain date and the
20 evidence indicates that it may have occurred on another date in
21 time, the law requires only the substantial similarity between
22 the dates and times alleged in the indictment and the dates and
23 times established by testimony or exhibits.

24 I will now instruct you as to the legal elements of
25 the crime charged. During these instructions you will hear me

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1 use the words "knowingly and intentionally." A person acts
2 knowingly when he acted intentionally and voluntarily and not
3 because of ignorance, mistake, accident, or carelessness.
4 Whether a defendant acted knowingly may be proven by his
5 conduct and by all of the facts and circumstances surrounding
6 the case. A person acts intentionally when he acts
7 deliberately and purposefully. That is a defendant's acts must
8 have been the product of his conscious objective decision,
9 rather than the product of a mistake or accident. These issues
10 of knowledge and intent require you make a determination about
11 a defendant's state of mind, something that can wearily be
12 proved directly.

13 A wise and a careful consideration of all of the case
14 circumstances of the case, however, permit you to make such a
15 determination as to the defendant's state of mind. Indeed, in
16 your everyday affairs you are frequently called upon to
17 determine a person's state of mind, to preserve his or her
18 words and actions in given circumstances. You are asked to do
19 the same here.

20 I will now instruct you on the law of conspiracy. You
21 should understand that a conspiracy is an offense separate from
22 the commission of any offense that may have been committed
23 pursuant to the conspiracy. That's because the formation of a
24 conspiracy of a partnership for criminal purposes is in and of
25 itself a crime. If a conspiracy exists, even if it fails to

Jury Charge

1 achieve its purpose, it is still punishable as a crime. The
2 essence of the charge of conspiracy is an understanding or
3 agreement between or among two or more persons that they will
4 act together to accomplish a common objective that they know is
5 unlawful.

6 The two elements of the crime of conspiracy are as
7 follows: First, that two or more persons entered into the
8 unlawful agreement charged in the conspiracy count that you are
9 considering. And second, that the defendant you are
10 considering knowingly and intentionally became a member of the
11 conspiracy.

12 Let me discuss these two elements in a little more
13 detail: First, as to the existence of the charge of
14 conspiracy, the Government must prove that two or more persons
15 entered into the unlawful agreement that is charged in the
16 count that you are considering. One person cannot commit the
17 crime of conspiracy alone. Rather the proof must be convince
18 you that at least two people joined together in a common
19 criminal scheme. In order for the Government to satisfy this
20 element, you need not find that the alleged members of the
21 conspiracy met together and entered into any express or formal
22 agreement. Similarly, you need not find that the alleged
23 conspirators stated in words or writing that the scheme was,
24 what its object or purpose was, or every precise detail of the
25 scheme or the means by which its object or purpose was to being

Jury Charge

1 accomplished. What the Government must prove is that there was
2 a mutual understanding either spoken or unspoken between two or
3 more people to cooperate with each other to accomplish an
4 unlawful act. You may, of course, find that the existence of
5 an agreement to disobey or disregard the law has been
6 established by direct proof. However, since conspiracy is by
7 its very nature characterized by secrecy, you may also infer its
8 existence from the circumstances of the case and the conduct of
9 the parties involved.

10 In a very real sense, then, the context -- not context
11 of conspiracy cases, actions often speak louder than words. In
12 this reckless disregard, you may in determining whether an
13 agreement existed here, consider the actions and statements of
14 all those you find to be participants as proof that a common
15 design existed on the part of the person charged to act
16 together to accomplish an unlawful purpose.

17 The second element requires that if you find a
18 conspiracy existed, you must determine whether the defendant
19 you are considering was a member. That is, you must determine
20 whether he participated in the conspiracy willfully, with
21 knowledge of its unlawful purpose, and in furtherance of its
22 unlawful purpose. To act willfully means to act knowingly and
23 purposefully with an intent to do something the law forbids,
24 that is to say with a bad purpose either to disobey or
25 disregard the law.

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1 A defendant's knowledge is a matter of inference from
2 the facts proved. To become a member of the conspiracy, the
3 defendant you are considering need not have known the
4 identities of any member, nor need he have been apprised of all
5 of their activities. Moreover, the defendant need not have
6 been fully informed as to all of the details or the scope of
7 the conspiracy in order to justify an inference of knowledge on
8 his part. The extent or duration of the defendant's
9 participation in the conspiracy has no bearing on the issue of
10 guilt.

11 Each member of the conspiracy may perform separate and
12 distinct acts and may perform them at different times. Some
13 conspirators may play major roles, while others play minor
14 roles in the scheme. An equal role is not what the law
15 requires. In fact, a single act may be sufficient to draw a
16 particular defendant within the scope of the conspiracy.
17 However, I will stress that merely being present at a place
18 where criminal contact is underway, does not make a person a
19 member of a conspiracy to commit that crime. This is true even
20 if the person knows that a crime is being committed. Mere
21 knowledge of or acquiesce in the unlawful plan without
22 participation is not sufficient. Nor does the defendant's mere
23 association with one or more members of the conspiracy
24 automatically make that defendant a member. A person may know,
25 be friendly with, or work with a criminal without being a

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1 criminal himself. More is required under the law. What is
2 required is proof beyond a reasonable doubt that a defendant
3 participated not plan with knowledge of its objective and with
4 the intent to help achieve that unlawful end.

5 The key inquiry is simply whether the defendant you
6 are considering, understanding the conspiracy's unlawful
7 character intentionally assisted in it in order to aid the
8 accomplishment of some unlawful purpose. If so, he is a
9 knowing and willful participant not unlawful agreement, that is
10 to say, a conspirator.

11 Before turning to the specific crimes charged, I'll
12 also inform you of the principal of aiding and abetting
13 liability. Under the aiding and abetting statute, it's not
14 necessary for the Government to prove the defendant himself
15 physically committed the crime in order to find the defendant
16 guilty. If you find beyond a reasonable doubt that a defendant
17 knowingly and intentionally helped another person not
18 submission of the crime, he is as guilty as if he personally
19 committed it.

20 To convict a defendant on the ground that he aided and
21 abetted the commission of a crime charged, the Government must
22 first prove that another person committed the crime. No one
23 can be convicted of aiding and abetting a criminal act of
24 another if no crime was committed by the other person not first
25 place. If you do find that a crime was committed, then you

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1 must determine whether the defendant you are considering aided
2 or abetted the commission of that crime by knowingly of the
3 crime and participated not crime by doing some act with the
4 intent to have the crime succeed.

5 In order for the defendant you are considering to be
6 convicted under an aiding and abetting theory, he must have had
7 more than mere knowledge that a crime was being committed and
8 acquiesced not finishing of the crime. The mere presence of a
9 defendant where a crime is being committed, even coupled with
10 knowledge by the defendant that a crime is being committed or
11 merely associating with others who are committing a crime, is
12 not sufficient to establish aiding and abetting. The defendant
13 must participate by knowingly and intentionally seeking by some
14 act to make the criminal venture succeed.

15 The charges against the defendants allege that they
16 participated in certain conspiracies. In that reckless
17 disregard, I admitted into evidence against the defendants the
18 act and statements of other, because these acts and statements
19 were committed by persons who the Government charges were also
20 co-conspirators of the defendants on trial. The reason for
21 allowing this evidence to be received against the defendants,
22 has to do with the nature of the crime of conspiracy. A
23 conspiracy is often referred to as a partnership in crime.
24 Thus, as in other types of partnerships when people enter into
25 a conspiracy to accomplish an unlawful end, each and every

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1 member becomes an agent of the other conspirators in carrying
2 out the conspiracy.

3 Accordingly, the reasonably foreseeable acts,
4 declaration, statements, and omissions of any member of the
5 conspiracy in furtherance of the common purpose of the
6 conspiracy are deemed under the law to be acts of all members.
7 Thus, if you find that the defendant who you are considering
8 was a member of a criminal conspiracy charge, then any act done
9 or statements made in furtherance of the conspiracy by persons
10 also found by you to have been members of that conspiracy may
11 be considered against the defendant. This is so even if such
12 acts were done and statements were made not defendant's absence
13 and without his knowledge.

14 Before you may consider the statements or acts of a
15 co-conspirator in deciding the issue of a defendant's guilty,
16 you must first determine if the acts and statements remained
17 during existence and in furtherance of the unlawful scheme. If
18 the acts were done or the statements made by someone whom you
19 do not find to have been a member of the conspiracy or if they
20 were not done or said in furtherance of the conspiracy, they
21 may not be considered by you as evidence against the defendant
22 as to that conspiracy.

23 Count 1 of the indictment charges all the defendants
24 with conspiracy to engage in alien smuggling between 2006 and
25 2017. The defendants are charged with conspiring to transport

Jury Charge

1 and harbor one or more aliens, that is a person who is not a
2 citizen of the United States in violation of federal law.

3 I've already instructed you on the general definition
4 of conspiracy, which is an agreement among two or more people
5 to commit a crime. I remind you that the crime of conspiracy
6 to violate a federal law is a separate offense from the
7 underlying crime. It is separate and distinct from the actual
8 violation of alien smuggling, which is the object of this
9 conspiracy and what we call the "substantive crime."

10 In order to find the defendant you are considering
11 guilty of conspiracy in alien smuggling, you must find beyond a
12 reasonable doubt that two or more persons agreed to commit the
13 crime of alien smuggling and that the defendant you are
14 considering knowingly and intentionally became a member of the
15 conspiracy. The Government does not have to prove that the
16 defendant actually committed the crime of alien smuggling.
17 What the Government must prove is that the defendant
18 voluntarily entered into a conspiracy, the purpose of which was
19 to commit alien smuggling.

20 The relevant provision of federal law prohibits two
21 categories of criminal acts. First, it prohibits a person from
22 transporting or moving an alien within the United States
23 knowing or in reckless disregard of the fact that the alien is
24 not United States in violation of law and in furtherance of the
25 alien's violation of the immigration laws.

Jury Charge

1 Second, it prohibits a person from concealing,
2 harboring, or shielding from protection an alien within the
3 United States knowing or in reckless disregard of the fact that
4 the person is not United States in violation of the law, and to
5 facilitate the alien's ability to remain not United States,
6 that is to make the alien's remaining not United States
7 illegally substantially easier or less difficult. The statute,
8 therefore, sets forth two different ways that the Government
9 can prove the underlying crime of alien smuggling because the
10 first two elements are the same. I'll discuss the first.

11 The first element requires that an alien enter o
12 remain in the United States in violation of law. An alien is a
13 person who is not a natural born or naturalized citizen.

14 The second element is that the person knew or acted in
15 reckless disregard with the fact that such alien came to,
16 entered, or remain not United States in violation of law. In
17 other words, to be guilty of alien smuggling conspiracy, a
18 person must either know that the alien in question came to,
19 entered, and remained not United States illegally or he must
20 have acted with reckless disregard of the facts concerning the
21 alien's status. I previously instructed you on knowledge, and
22 you should apply that instruction here. For purposes of this
23 instruction, the phrase "reckless disregard of the facts" means
24 deliberate indifference to facts that, if considered and
25 weighed in a reason manner, indicate the highest probability

Jury Charge

1 that the alleged alien was, in fact, an alien and was not
2 United States unlawful.

3 As for the third and fourth elements of the crime of
4 alien smuggling, the Government may prove them in one of two
5 ways: The first way is to prove that a person transported or
6 moved the alien within the United States in furtherance of the
7 alien's violation of the immigration laws.

8 The second way is to prove that the person concealed,
9 harbored, shielded the alien from detection within the
10 United States to facilitate the alien's ability to remain not
11 United States. I'll discuss these in turn.

12 The Government may establish the third element of the
13 crime of alien smuggling that the proof that the person
14 transported the alien within the United States and acted
15 willfully in furtherance of the alien's violation of the
16 immigration laws. Willful conduct in furtherance of the
17 alien's illegal presence not United States means that there
18 must be a direct and substantial relationship between the
19 transportation and furthering the alien's unlawful presence not
20 United States.

21 Transportation of an illegal alien is not by itself a
22 violation of law if it is merely incidental to the alien's
23 presence not United States. The transportation is illegal only
24 when it is in furtherance of the alien's unlawful presence. In
25 determining whether there was a direct and substantial

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1 relationship between the transportation and furthering the
2 alien's unlawful presence not United States, you should
3 consider all relevant evidence, including the time of the
4 transportation, place, distance of the transportation, and the
5 overall impact of the transportation.

6 The Government may establish the third element of the
7 crime of alien smuggling if it proves that the person
8 concealed, harbored, or shielded an alien from detection within
9 the United States to facilitate the alien's ability to remain
10 not United States. To harbor a person means to provide shelter
11 for that person. To shield from detection means to act in a
12 way that prevents the authorities from learning of the fact
13 that an alien is not United States illegally. You need not
14 find that the person acted secretly or that the harboring of
15 the alien is clandestine. The Government must prove that the
16 person's actions of harboring, concealing, or shielding an
17 alien from detection substantially facilitated the alien's
18 ability to remain not United States illegally. To
19 substantially facilitate an alien remaining not country means
20 to make that alien's remaining in the United States illegally
21 substantially easier or less difficult.

22 As I already instructed you, conspiracy is a crime
23 even if it fails to achieve its purpose. Thus, to prove
24 Count 1, the Government does not have to prove that any
25 defendant actually committed the crime of alien smuggling.

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1 Rather, if you find beyond a reasonable doubt that the
2 defendant you're considering knowingly and intentionally agreed
3 to commit the crime of alien smuggling, then you should find
4 that defendant guilty of Count 1.

5 If you find the defendant guilty of conspiracy to
6 commit alien smuggling under Count 1, you must then determine
7 if the Government proved beyond a reasonable doubt that the
8 defendant acted for the purpose of private financial gain. The
9 phrase "private financial gain" should be given its ordinary
10 and nature meaning. Private financial gain is profit or gain
11 in money or property specifically for a particular person or
12 group. There is no requirement that the defendant actually
13 received some financial gain. Although, of course, you may
14 consider evidence that the defendant did receive financial gain
15 in deciding whether he acted for that purpose.

16 Count 2 charges all of the defendants with conspiracy
17 to transport minors to engage in prostitution between
18 August 2006 and April 2014. I have already instructed you on
19 the general definition of conspiracy. You should apply that
20 definition here. I remind you that the crime of conspiracy to
21 violate federal law is a separate offense from the underlying
22 crime. In order to find the defendant you are considering
23 guilty of conspiracy to transport minors to engage in
24 prostitution, you must find beyond a reasonable doubt that two
25 or more persons agreed to transport minors to engage in

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1 prostitution, and that the defendant you are considering
2 knowingly and intentionally became a member of that conspiracy.
3 The Government does not have to prove that the defendant
4 actually committed the crime of transporting minors to engage
5 in prostitution.

6 I will now define the elements of transporting a minor
7 for the purpose of prostitution. They are as follows: First,
8 that the defendant knowingly transported an individual in
9 interstate or foreign commerce.

10 Second, that the defendant transported that individual
11 with the intent that she would engage in prostitution.

12 And third, that the individual would be less than 18
13 years old at the time of the acts alleged in the indictment.

14 The first element requires that the defendant
15 knowingly transported an individual in interstate or foreign
16 commerce. To act knowingly means to act voluntarily and
17 intentionally and not because of accident, mistake, or other
18 innocent reason. Interstate or foreign commerce simply means
19 movement between one state or another, or between the
20 United States and a foreign country. The defendant must have
21 knowingly transported an individual in interstate commerce.
22 This means that the Government must prove that the defendant
23 knew both that he was transporting an individual, and that he
24 was transporting the individual in interstate or foreign
25 commerce. The Government does not have to prove that the

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1 defendant personally transported the individual across the
2 state line or from a foreign country to the United States. It
3 is sufficient to satisfy this element that the defendant would
4 actively engaged in the making of the travel arrangements such
5 as by purchasing the tickets necessary for the individual to
6 travel as planned.

7 The second element requires that the defendant
8 transported the individual with the intent that she would
9 engage in prostitution. In order to establish this element,
10 it's not necessary for the Government to prove that engaging in
11 prostitution was the sole purpose for crossing the state line
12 or foreign border. A person may have several different
13 purposes or motives for such travel, and each may prompt in
14 varying degrees the act of making the journey. The Government
15 must prove beyond a reasonable doubt, however, that a
16 significant or motivating purpose of the travel across a state
17 line was that the individual would engage in prostitution. In
18 other words, that illegal activity must not have been merely
19 incidental to the trip.

20 Direct proof of a person's intent is almost never
21 available. It would be a rare case where it would be shown
22 that a person wrote or stated that as of a given time he
23 committed an act with that particular intent. Such direct
24 proof is not required. The ultimate fact of intent, though
25 subjective, may be established by circumstantial evidence based

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1 upon a defendant's outward manifestations, his words, his
2 conduct, his acts, and all the surrounding circumstances
3 disclosed by the evidence and the rationale or logical
4 inferences that may be drawn from them. Whether or not a minor
5 consented to engage in prostitution is irrelevant. The consent
6 or voluntary participation of a minor is not a defense to the
7 charge.

8 The third and last element that the Government must
9 prove beyond a reasonable doubt is that the individual was less
10 than 18 years old at the time of the acts alleged not
11 indictment. The Government need not prove that the defendant
12 knew that the individual was less than 18 years old. If you
13 find that the Government proved beyond a reasonable doubt the
14 defendant you are considering knowingly and intentionally
15 agreed with others to transport one or more minors in
16 interstate or foreign commerce to engage in prostitution, then
17 you should find that defendant guilty of counts 2. As I
18 already instructed you, a conspiracy is a crime even if it does
19 achieve its purpose. The Government does not have to prove
20 that the defendant or a co-conspirator actually committed the
21 crime of transporting a minor to engage in prostitution, but
22 the Government must prove that the defendant voluntarily
23 entered a conspiracy for the purpose of which was to transport
24 a minor to engage in prostitution.

25 Count 3 of the indictment charges all of the

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1 defendants with conspiracy to engage in sex trafficking and/or
2 sex trafficking of minors. I have already instructed you on
3 the general definition of conspiracy, which I said is an
4 agreement among two or more persons to commit a crime. Here
5 the defendants are charged with conspiracy to commit the crime
6 of sex trafficking and/or trafficking of minors, which I will
7 refer to as the underlying crime.

8 In order to find the defendant you are considering
9 guilty of conspiracy to commit sex trafficking and/or sex
10 trafficking of minors, you must find that two or more persons
11 agreed to commit the crime of sex trafficking, and that the
12 defendant you are considering knowingly and intentionally
13 became a member of the conspiracy. The Government does not
14 have to prove that the defendant or a co-conspirator actually
15 committed the crime of sex trafficking and/or sex trafficking
16 of minors, what the Government must prove is that the defendant
17 voluntarily entered a conspiracy, the purpose of which was to
18 commit sex trafficking and/or sex trafficking of minors.

19 I will now explain the elements of the crime of sex
20 trafficking and/or sex trafficking of minors that the
21 defendants are charged with conspiring to commit between
22 January of 2009 and July 2017. Those are as follows: First,
23 that the defendant or a co-conspirator knowingly transported,
24 recruited, or enticed, harbored, provided, obtained, or
25 maintained a person by any means; or that the person knowingly

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1 benefited financially or by receiving something of value from
2 participating in a venture that recruited, enticed,
3 transported, provided, obtained, or maintained a person.

4 Second, that the defendant knew or recklessly
5 disregarded that force, fraud, or coercion would be used with
6 respect to such person or that such person was under the age of
7 18 years.

8 Third, that the defendant knew that such person would
9 be engaged in a commercial sex act.

10 And fourth, that the defendant's conduct or that of
11 its co-conspirator would enter and affect interstate or foreign
12 commerce.

13 I will now further define these elements. The first
14 element the Government must prove is that the defendant you are
15 considering or a co-conspirator knowingly recited, enticed,
16 harbored, transported, provided, obtained, or maintained a
17 person; or that the defendant or a co-conspirator knowingly
18 benefited financially or by receiving something of value from
19 participating in a venture that did one of these things.

20 The statute sets forth two different ways that the
21 Government can prove this element. The first is by proving
22 that a defendant himself was a co-conspirator engaged in at
23 least one of a list of prohibited trafficking activity. And
24 the second is by proving that the defendant took part in a
25 venture that engaged in at least one of those trafficking

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1 activities, and that the defendant benefited financially or by
2 receiving a thing of value from that venture.

3 The Government does not have to prove both means of
4 establishing this element. Proof beyond a reasonable doubt of
5 one or the other is sufficient. But in order to find the
6 defendant guilty of Count 3, all 12 of you must agree that the
7 same means of establishing this element has been proven.

8 The first way the Government may satisfy the first
9 element is by proving that the defendant you are considering
10 himself or a co-conspirator knowingly recruited, enticed,
11 harbored, transported, provided, obtained, or maintained a
12 person. In considering whether the defendant you're
13 considering did any of these things, I instruct you to use the
14 ordinary everyday definition of these terms. To harbor a
15 person means to provide shelter for that person. To obtain
16 someone refers to acquiring, controlling, or possessing that
17 person even for a short period of time. To maintain someone
18 means to upkeep someone or put care or work into them.

19 I will now explain the second alternative way to
20 satisfy the first element. To satisfy this element the second
21 way, the Government need not prove that the defendant you are
22 considering himself engaged in the trafficking activities of
23 recruiting, enticing, harboring, transporting, providing, or
24 obtaining a person. The Government need only prove that there
25 was a venture that engaged in these activities, that the

Jury Charge

1 defendant participated in some way in that venture, and that
2 the defendant benefited financially, or by receiving a thing of
3 value from that venture.

4 In considering whether the defendant participated in
5 such a venture, I instruct you that a venture is defined as any
6 group of two or more individuals associated, in fact, whether
7 or not a legal entity. So if two or more people associated
8 with one another, you may find that those two people formed a
9 venture.

10 (Continued on the next page.)

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1 (In open court.)

2 THE COURT: You may find that the defendant you are
3 considering participated in the venture if the defendant in any
4 way took part in that venture. The defendant may be but need
5 not be one of the people who formed the venture. Likewise, the
6 defendant need not be an organizer or a main participant in the
7 venture, and need not have participated throughout the length
8 of the venture. It is enough if the defendant took some part
9 in or played some role in the sex tracking venture for any
10 period of time while it was still ongoing to further the
11 venture.

12 It is sufficient if the defendant played any role
13 intended to further the venture, even if that role was minor
14 and even if that role was not related to the actual recruiting,
15 enticing, harboring, transporting, providing or obtaining a
16 person for commercial sex acts that the venture engaged in.

17 Now, as I've stated, the defendant must also benefit
18 financially or by receiving a thing of value from the venture.
19 You may find that this requirement is satisfied if defendant
20 received any form of profit, benefit, value or advantage, no
21 matter how minor from the venture. Of course, if you find that
22 defendant himself recruited, enticed, harbored, transported,
23 provided or obtained, you need not consider whether the
24 defendant benefited from doing so. You need only consider
25 whether the defendant benefited, if you find defendant's

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1 involvement in sex trafficking was through participating in the
2 trafficking venture rather than the trafficking activity
3 itself.

4 The statute also requires the Government to prove that
5 the defendant acted knowingly. So the Government must prove
6 that defendant acted knowingly in either engaging in the
7 tracking activity or in joining a venture that he knew engaged
8 in trafficking activity.

9 I have already instructed you regarding what it means
10 to act knowingly. You should apply that instruction here.

11 The second element the Government must prove beyond a
12 reasonable doubt is that the defendant you are considering knew
13 or was in reckless disregard of the fact that force, fraud or
14 coercion would be used with respect to the victim or that the
15 defendant you are considering knew or acted in reckless
16 disregard of the fact that the victim was under the age of 18.

17 The Government does not have to prove both parts of
18 this element for you to find the defendant you are considering
19 guilty of Count 3. Proof beyond a reasonable doubt of either
20 part of this element is enough. But in order to find a
21 defendant guilty of Count 3, all 12 of you must agree that the
22 same part of the element has been proved.

23 Again, the statute sets forth several ways that the
24 Government can prove this element. The first way the
25 Government may prove the second element is that the defendant

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1 you are considering knew or was in reckless disregard of the
2 fact that force, fraud or coercion would be used with respect
3 to the victim.

4 The term "force" means any form of power, violence or
5 physical pressure directed against the person. "Fraud," as I
6 just used the term, means that the defendant or a
7 co-conspirator knowingly made a misstatement or omission of a
8 material fact to entice the victim. A material fact is one
9 that a reasonable person would expect to rely on when making a
10 decision.

11 Coercion means, A, the threat of serious harm or
12 physical restraint against a person; B, any scheme, plan or
13 pattern intended to cause a person to believe that failure to
14 perform an act would result in serious harm to, or physical
15 restraint against a person; or C, the abuse or threatened abuse
16 of law or legal process.

17 A "threat" is a serious statement expressing an
18 intention to inflict harm at once or in the future, as
19 distinguished from idle or careless talk, exaggeration or
20 something said in a joking manner.

21 The statement is a threat if it was made under such
22 circumstances that a reasonable person hearing the statement
23 would understand it as a serious expression of intent to cause
24 harm. In addition, the defendant must have made the statement
25 intending it to be a threat or with the knowledge that the

Jury Charge

1 statement would be viewed as a threat.

2 The term "serious harm" includes both physical and
3 nonphysical types of harm, including psychological, financial
4 or reputational harm that is sufficient under all of the
5 surrounding circumstances to compel a reasonable person of the
6 same background and in the same circumstances to perform or
7 continue to perform commercial sexual activity in order to
8 avoid incurring the harm.

9 In determining whether the defendant or a
10 co-conspirator made a threat of serious harm, you should
11 consider the victim's particular station in life, physical and
12 mental condition, age, education, training, experience and
13 intelligence.

14 A threat of serious harm must be sufficient in kind or
15 degree to completely overcome the will of an ordinary person
16 having the same general station in life as that of the victim,
17 causing a reasonable belief that there was no reasonable choice
18 except to engage in a commercial sex act as directed by
19 defendant or a co-conspirator.

20 "Coercion" can also mean that the defendant engaged in
21 a course of behavior intended to cause the victim to believe
22 that if she did not engage in a commercial sex act as directed
23 by the defendant or a co-conspirator, any person, including the
24 victim or someone close to her, would suffer serious harm.
25 Coercion can also mean to use threats of legal action, whether

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1 administrative, civil or criminal in any manner or for any
2 purpose for which the law was not designed in order to coerce
3 someone into working against that person's will.

4 To satisfy this element, the Government must prove
5 that force, fraud or coercion as I just defined those terms,
6 was used and that the defendant you are considering knew or was
7 in reckless disregard of the fact that it would be used against
8 a victim.

9 Whether or not the defendant had this knowledge is a
10 question of fact to be determined by you on the basis of all
11 the evidence. An act is done knowingly if it's done purposely
12 and deliberately, not because of accident, mistake, negligence
13 or other innocent reason. If you find that the evidence
14 establishes beyond a reasonable doubt that the defendant
15 actually knew that coercion would be used, then this element is
16 satisfied.

17 Even if the evidence does not establish actual
18 knowledge, this element is satisfied if you find that the
19 Government has proved beyond a reasonable doubt that the
20 defendant acted with reckless disregard of the facts concerning
21 the use of coercion.

22 The phrase, "reckless disregard of the facts," means
23 deliberate indifference to facts that, if considered and
24 weighed in a reasonable manner indicate the highest probability
25 that the victim was coerced to engage in a commercial sex act.

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1 I will now explain the second alternative way to
2 satisfy the second element. To satisfy this element the second
3 way, the Government must prove that the defendant you are
4 considering knew or acted in reckless disregard of the fact
5 that the victim was under the age of 18. The Government must
6 prove that the defendant you are considering knew or acted in
7 reckless disregard of the fact that the victim was under the
8 age of 18 years in several ways.

9 First, that the defendant actually knew that the
10 victim was under the age of 18 years; second, that the
11 defendant was in reckless disregard of the fact that the victim
12 was under the age of 18 years; or third, that the defendant had
13 a reasonable opportunity to observe the victim.

14 If you find that the defendant you are considering had
15 a reasonable opportunity to observe the victim, the Government
16 need not prove that the defendant knew or recklessly
17 disregarded the fact that the victim was under the age of 18.
18 Whether or not a minor can consented to engage in a commercial
19 sex act is irrelevant. The consent or voluntary participation
20 of a minor is not a defense to this charge.

21 The third element the Government must prove is that
22 the defendant you are considering knew that the victim would be
23 engaged in a commercial sex act. A commercial sex act is any
24 act of which anything of value -- excuse me -- is any sex act
25 of which anything of value is given to, or received by any

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1 person because of such sex act.

2 It is not required that the victim actually performed
3 a commercial sex act, as long as the Government has proven that
4 the defendant recruited, enticed, harbored, transported,
5 provided, obtained or maintained the victim for purposes of
6 engaging in commercial sex acts.

7 A thing of value need not involve a monetary exchange
8 and need not have any financial component. The phrase "any sex
9 act" should be given its plain meaning and may include any act
10 performed with another for sexual gratification.

11 Lastly, the fourth element that the Government must
12 prove beyond a reasonable doubt is that the conduct of the
13 defendant or that of a co-conspirator was in or affecting
14 interstate or foreign commerce. Interstate or foreign commerce
15 simply means the movement of goods, services, money and
16 individuals between any two or more states or between the
17 United States and a foreign country.

18 To satisfy this element, the Government must prove
19 that the defendant's conduct affected interstate commerce in
20 any way, no matter how minimal. You do not have to find that
21 the defendant's conduct actually affected interstate commerce,
22 if you find that the defendant's conduct would have affected
23 interstate commerce if the defendant had successfully and fully
24 completed his actions. The Government does not have to show
25 that the defendant actually knew his actions affected or would

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1 affect interstate commerce.

2 If you find that the Government proved beyond a
3 reasonable doubt that the defendant you are considering
4 knowingly and intentionally agreed with others to commit the
5 crime of sex trafficking and/or sex trafficking of minors, then you
6 should find that defendant guilty of Count 3.

7 As I already instructed you, a conspiracy is a crime,
8 even if it does not achieve its purpose. The Government does
9 not have to prove that the defendant or a co-conspirator
10 actually committed the crime of sex trafficking. What the
11 Government must prove is that the defendant voluntarily entered
12 into a conspiracy, the purpose of which was to commit sex
13 trafficking.

14 Count 4 charges that the defendants, Jose Miguel
15 Melendez Rojas, Rosario Melendez Rojas, and Abel Romero
16 Melendez with committing sex trafficking and sex trafficking of a
17 minor, that is, Diana, between August 2006 and March 2007.

18 I previously instructed you regarding the law on sex
19 trafficking and sex trafficking of minors under Count 3;
20 However, because this count in the indictment charges that the
21 crime occurred during an earlier time period than that charged
22 in Count 3, the elements of sex trafficking and sex trafficking
23 of minors are slightly different. I will, therefore, instruct
24 you on the law that you should consider under this count.

25 To prove this crime, the Government must prove beyond

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1 a reasonable doubt the following four elements: First, that
2 the defendant knowingly transported, recruited, enticed,
3 harbored, provided or obtained a person by any means; second,
4 that the defendant knew that force, fraud or coercion would be
5 used with respect to such person or that such person was under
6 the age of 18 years; third, that the defendant knew that such
7 person would be engaged in a commercial sex act; and fourth,
8 that defendant's conduct was in or affecting interstate or
9 foreign commerce. I'll now further define these elements.

10 The first element that the Government must prove is
11 that the defendant knowingly transported, recruited, enticed,
12 harbored, provided or obtained a person. To "harbor" a person
13 means to provide shelter for that person. To "obtain" someone
14 refers to acquiring, controlling or possessing that person,
15 even for a short period of time. I've already instructed you
16 regarding what it means to act knowingly. You should apply
17 that instruction here.

18 The Government may prove the second element in either
19 of two ways. It may prove beyond a reasonable doubt that the
20 defendant knew that force, fraud or coercion would be used with
21 respect to Diana or that the defendant knew that Diana was
22 under the age of 18.

23 The Government does not have to prove both of these
24 parts of this element -- both parts of this element for you to
25 find the defendant you are considering guilty of Count 4.

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1 Proof beyond a reasonable doubt of either part is enough, but
2 in order to find the defendant you are considering guilty of
3 this crime, all twelve of you must agree that the same part of
4 the element has been proved. As I instructed you in Count 3,
5 whether or not a minor consented to a engage in a commercial
6 sex act is irrelevant. The consent or voluntary participation
7 of a minor is not a defense to the charge.

8 The third element that the Government must prove is
9 that the defendant knew that the victim would engage in a
10 commercial sex act. I have previously defined the term
11 "commercial sex act" under Count 3. You should apply that
12 instruction here.

13 Lastly, the fourth element that the Government must
14 prove beyond a reasonable doubt is that the defendant's conduct
15 was in or affecting interstate commerce. This definition is
16 the same as previously described, and you must apply those
17 instructions here.

18 You may also find that the defendant you are
19 considering guilty of Count 4, if the Government has proven
20 beyond a reasonable doubt that he has aided and abetted sex
21 trafficking or sex trafficking of a minor, that is, Diana, in
22 determining whether the defendant is guilty as an aider and
23 abettor, you must follow the general instructions on aiding and
24 abetting that I have already given to you.

25 Count 5 charges the defendants Jose Miguel Melendez

Jury Charge

1 Rojas, Jose Osvaldo Melendez Rojas, and Rosario Melendez Rojas
2 with committing sex trafficking of Veronica between 2007 and
3 2013. I previously instructed you regarding the elements of
4 the crime of sex trafficking; however, because Count 5 in the
5 indictment charges the sex trafficking of Veronica, who is not
6 a minor, I will also instruct you on the law that you should
7 consider under this count.

8 To find a defendant you are considering guilty of sex
9 trafficking as to Veronica, you must find that the following
10 elements has been proven beyond a reasonable doubt: First, the
11 defendant knowingly transported, recruited, enticed, harbored,
12 provided or obtained a person by any means or that the
13 defendant knowingly benefited financially or by receiving
14 something of value from participating in a venture that
15 recruited, enticed, transported, provided or obtained a person;
16 second, that the defendant knew that force, fraud or coercion
17 would be used with respect to such person; third, that the
18 defendant knew that such person would engage in commercial sex
19 act; and fourth, that the defendant's conduct was in or
20 affecting interstate or foreign commerce.

21 I previously explained the definition -- excuse me. I
22 have previously explained and defined these terms under Count
23 4, and you should apply those instructions here.

24 Of course, because Veronica is not a minor, in
25 considering the second element, you should apply only the prong

Jury Charge

1 relating to force, fraud or coercion, and not the prong
2 relating to the fact that the person was under 18.

3 You may also find the defendant you are considering
4 guilty of Count 5 if Government has proven beyond a reasonable
5 doubt that he aided and abetted the sex trafficking of
6 Veronica. In determining whether the defendant is guilty as an
7 aider and abettor, you must follow the general instructions on
8 aiding and abetting that I have already given you.

9 Count 6 charges defendants, Jose Osvaldo Melendez
10 Rojas, Rosalio Melendez and Rosalio Melendez Rojas with
11 committing sex trafficking of Fabiola between April of 2009,
12 and September of 2015.

13 I've just instructed you regarding the elements of the
14 crime of sex trafficking, but since Count 6 in the indictment
15 charges that the crime occurred during a later time period,
16 then that charge in Count 5, the elements of sex trafficking
17 are slightly different. I will, therefore, instruct you on the
18 law that you should consider under this count.

19 To find the defendant you are considering guilty of
20 sex trafficking of Fabiola, you must find that the following
21 elements have been proven beyond a reasonable doubt: First,
22 that the defendant knowingly transported, recruited, enticed,
23 harbored, provided, obtained or maintained a person by any
24 means, or that the defendant knowingly benefited financially or
25 by receiving something of value from participating in a venture

Jury Charge

1 that recruited, enticed, transported, provided, obtained or
2 maintained a person; second, that the defendant knew or
3 recklessly disregarded that force, fraud or coercion would be
4 used with respect to such person; third, that the defendant
5 knew that such person would be engaged in a commercial sex act;
6 and fourth, that the defendant's conduct was in or affecting
7 interstate or foreign commerce.

8 I've previously explained and defined these terms and
9 you should apply those instructions here. Of course because
10 Fabiola was not a minor, in considering the second element, you
11 should apply only the prong relating to force, fraud and
12 coercion, and not the prong relating to the fact that the
13 person was under the age of 18.

14 You may also find the defendant you are considering
15 guilty of Count 6 if the Government has proven beyond a
16 reasonable doubt that he aided and abetted the sex trafficking
17 of Fabiola. In determining whether the defendant was guilty as
18 an aider and abettor, you must follow the general instructions
19 on aiding and abetting that I've already given you.

20 Count 7 charges the defendants, Jose Osvaldo Melendez
21 Rojas and Rosalio Melendez Rojas with committing alien
22 smuggling of Fabiola between April 2009 and September 2015.

23 These two defendants are charged with alien smuggling
24 by encouraging or inducing an alien, that is, a person who is
25 not a citizen of the United States to violate the law.

Jury Charge

1 In order to prove the defendant you are considering
2 guilty of Count 7, you must find that the following elements
3 have been proven beyond a reasonable doubt: First, that the
4 defendant you are considering encouraged or induced an alien to
5 come to, enter or reside in the United States in violation of
6 law.

7 I've previously instructed you on the meaning of
8 "alien." To "encourage" means to instigate, convince, help or
9 advise an alien to come to the United States or stay in this
10 country. To "induce" means to bring about a fact caused or
11 influence an alien to come to the United States or stay in this
12 country.

13 Second, that the defendant knew or acted in reckless
14 disregard of the fact that the alien he encouraged or induced
15 would come to, enter or reside in the United States, in
16 violation of law. In other words, the defendant must either
17 know that Fabiola would come to and enter or reside in the
18 United States illegally or he must have acted in reckless
19 disregard of such facts.

20 As I've previously instructed you that the phrase
21 reckless disregard of the facts means deliberate indifference
22 to facts that if considered and weighed in a reasonable manner
23 indicate the highest probability that Fabiola was, in fact, an
24 alien and would be in the United States unlawfully.

25 You may also find the defendant you are considering

Jury Charge

1 guilty of Count 7 if the Government has proven beyond a
2 reasonable doubt that he aided and abetted alien smuggling of
3 Fabiola. In determining whether the defendant is guilty as an
4 aider and abettor, you must follow the general instructions
5 that I've already given you about that.

6 If you find the defendant guilty of alien smuggling
7 under Count 7, you must then determine whether the defendant
8 acted for the purpose of private financial gain. I've already
9 instructed you on the meaning of that phrase, which is a profit
10 or gain in money or property, specifically for a particular
11 person or group.

12 Count 8 charges defendants, Jose Osvaldo Melendez
13 Rojas and Francisco Melendez Rojas with committing sex
14 trafficking of Maria Rosalba between May 2010 and February of
15 2012.

16 To find the defendant you are considering guilty of
17 sex trafficking as to Maria Rosalba, you must find that the
18 following elements have been proven beyond a reasonable doubt:
19 First, that the defendant knowingly transported, recruited,
20 enticed, harbored, provided, obtained or maintained a person by
21 any means, or that the defendant knowingly benefited
22 financially or by receiving something of value from
23 participating in a venture that recruited, enticed,
24 transported, provided, obtained or maintained a person.

25 Second, that the defendant knew or recklessly

Jury Charge

1 disregarded that force, fraud or coercion would be used with
2 respect to such person; third, that the defendant knew that
3 such person would be engaged in a commercial sex act; and
4 fourth, that the defendant's conduct was in or affecting
5 interstate or foreign commerce. I've previously explained and
6 defined these terms and you should apply those instructions
7 here.

8 Of course, because Maria Rosalba is not a minor, in
9 considering the second element, you should apply only the prong
10 relating to force, fraud and coercion, and not the prong
11 relating to the fact that the person was under the age of 18.

12 You may also find the defendant you are considering
13 guilty of Count 8 if the Government has proven beyond a
14 reasonable doubt that he aided and abetted sex trafficking of
15 Maria Rosalba. In determining that, you must follow the
16 general aiding and abetting instructions I have already given
17 to you.

18 Count 9 charges defendants, Jose Osvaldo Melendez
19 Rojas and Francisco Melendez Rojas, with alien smuggling of
20 Maria Rosalba between May 2010 and February 2012. I've already
21 instructed you on the elements of the crime of alien smuggling
22 under Count 7. You should those instructions here.

23 You may also find the defendant you are considering
24 guilty of Count 9 if the Government has proven beyond a
25 reasonable doubt that he aided and abetted alien smuggling of

Jury Charge

1 Maria Rosalba. In determining whether the defendant is guilty
2 as an aider or abettor, you must follow the general
3 instructions on aiding and abetting that I've given to you.

4 If you find the defendant guilty of alien smuggling
5 under Count 9, you must then determine whether the defendant
6 acted for the purpose of private financial gain. I've already
7 instructed you on the meaning of the phrase "private financial
8 gain," which is the profit or gain in money or property
9 specifically for a particular person or group.

10 Count 10 charges the defendants, Jose Miguel Melendez
11 Rojas, Jose Osvaldo Melendez Rojas, Rosalio Melendez Rojas, and
12 Francisco Melendez Perez with committing sex trafficking and
13 sex trafficking of a minor, that is, Delia, between July 2010
14 and April of 2014. I've already instructed you on the elements
15 of sex trafficking and sex trafficking of a minor. Under Count
16 3, you should apply those instructions here. As I instructed
17 you in Count 3, whether or not a minor consented to engage in a
18 commercial sex traffic is irrelevant. The consent or voluntary
19 participation of a minor is not a defense to the charge.

20 You may also find the defendant you are considering
21 guilty of Count 10 if the Government has proven beyond a
22 reasonable doubt that he aided and abetting sex trafficking of
23 a minor, that is, Delia. In determining whether the defendant
24 is guilty as an aider and abettor, you must follow the general
25 instructions that I've given you on that.

Jury Charge

1 Counsel 11 charges the defendants, Jose Miguel
2 Melendez Rojas, Jose Osvaldo Melendez Rojas, Rosalio Melendez
3 Rojas, and Francisco Melendez Perez with transportation of a
4 minor, Delia, to engage in prostitution between July 2010 and
5 2014.

6 To establish this crime, you must find that the
7 following elements have been proven beyond a reasonable doubt:
8 First, that the defendant you are considering knowingly
9 transported Delia in interstate or foreign commerce, as alleged
10 in the indictment; second, that the defendant you are
11 considering transported Delia with the intent that Delia would
12 engage in prostitution; and third, that at the time, Delia was
13 less than 18 years old. I've previously explained and defined
14 the elements of transporting a minor for the purpose of
15 prostitution under Count 2, and you should apply those
16 instructions here. As I've previously instructed you, whether
17 or not a minor consented to engage in prostitution is
18 irrelevant if consent or voluntary participation of a minor is
19 not a defense to the charge.

20 You may also find the defendant you are considering
21 guilty of Count 11 if the Government has proven beyond a
22 reasonable doubt that he aided and abetted the transportation
23 of Delia to engage in position prostitution. In determining
24 that, you must follow the instructions that I gave you on
25 aiding and abetting.

Jury Charge

1 Count 12 charges defendants, Jose Miguel Melendez
2 Rojas, Jose Osvaldo Melendez Rojas, Rosalio Melendez Rojas and
3 Francisco Melendez Perez with committed alien smuggling of
4 Delia between July 2010 and April 2014. I have already
5 instructed you on the elements of the crime of alien smuggling
6 under Count 7. You should apply those instructions here.

7 You may also find the defendant you are considering
8 guilty of Count 12 if the Government has proven beyond a
9 reasonable doubt that he aided and abetted alien smuggling of
10 Delia. In determining whether the defendant is guilty as an
11 aider and abettor, you must follow the general instructions on
12 aiding and abetting that I have already given you.

13 If you find a defendant guilty of alien smuggling
14 under the Count 12, you must then determine whether that
15 defendant acted for the purposeful of private financial gain.
16 I've already instructed you on the meaning of the phrase
17 "private financial gain," and you must apply that instruction
18 here.

19 Count 14 charges the defendant, Rosalio Melendez Rojas
20 with committing alien smuggling of Daisy between August 2011
21 and December 2014. I've already instructed you on the elements
22 of the crime of alien smuggling under Count 7. You should
23 apply those instructions here.

24 You may also find defendant you are considering guilty
25 of Count 14 if the Government has proven beyond a reasonable

Jury Charge

1 doubt that he aided and abetted alien smuggling of Daisy. In
2 determining that, you must follow the general instructions that
3 I gave you about aiding and abetting.

4 Are you all right? Do you want to stand and stretch
5 for a minute?

6 (All jurors respond negatively.)

7 THE COURT: Okay. If you find the defendant guilty of
8 alien smuggling under Count 14, you must then determine whether
9 that defendant acted for a purpose of private financial gain.
10 I've already instructed you on that meaning. You should apply
11 it here.

12 Count 15 charges the defendant, Jose Miguel Melendez
13 Rojas, Jose Osvaldo Melendez Rojas, Rosalio Melendez Rojas and
14 Francisco Melendez Perez with participating in a conspiracy to
15 permit money laundering between 2006 and July of 2017.

16 I've already instructed you on the general definition
17 of conspiracy, which as I said, is an agreement among two or
18 more people to commit a crime. I remind you that the crime of
19 conspiracy to violate a federal law is a separate offense from
20 the underlying crime. Conspiracy to commit money laundering is
21 separate and distinct from an actual violation of money
22 laundering, which is the object of a conspiracy, and what we
23 call the substantive crime.

24 In order to find the defendant you are considering
25 guilty of conspiracy to commit money laundering, you must find

Jury Charge

1 that two or more persons agreed to commit the crime of money
2 laundering, and that the defendant you are considering
3 knowingly and intentionally became a member of the conspiracy
4 on. I'll now instruct you on the elements of the crime of
5 money laundering.

6 To prove this, the Government must prove the following
7 three elements beyond a reasonable doubt: First, that a person
8 conducted a financial transaction involving property
9 constituting the proceeds of specified unlawful activity,
10 namely, sex trafficking, sex trafficking of minors, or
11 interstate prostitution; second, that the person knew that the
12 property involved in this financial transaction was the
13 proceeds of some form of unlawful activity; and third, that the
14 person acted with the intent to promote carrying on of the
15 specified unlawful activity, or knew that transaction was
16 designed in whole or in part either to conceal or to disguise
17 the nature, location, source, ownership or control of the
18 proceeds of specified unlawful activity.

19 (Continued on the next page.)

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Jury Charge

1 (In open court.)

2 THE COURT: The first element that the government must
3 prove beyond a reasonable doubt is that a person conducted a
4 financial transaction involving property constituting the
5 proceeds of specified unlawful activity, namely, sex
6 trafficking, sex trafficking of minors, or interstate
7 prostitution. The word "conducts" includes initiating,
8 concluding, or participating in initiating or concluding a
9 transaction.

10 A transaction includes, in this case, a transfer of
11 property, specifically currency. The term "financial
12 transaction" means a transaction involving a financial
13 institution which is engaged in, or the activities of which
14 affect, interstate or foreign commerce in any way or degree --
15 or a transaction which in any way or degree affects interstate
16 or foreign commerce and involves the movement of funds by wire
17 or other means.

18 A transaction involving a financial institution in
19 this case, includes a wire transfer or any payment, transfer,
20 or delivery by or -- by, through, or to a financial institution
21 by whatever means. A money remitter or wire transfer company
22 is a financial institution.

23 The term "interstate or foreign commerce" means
24 commerce between any combination of states, or between the
25 United States and a foreign country. The "term monetary

Jury Charge

1 instrument" includes, among other things, coin or currency of
2 the United States or any other country in such form that title
3 thereto passes upon delivery.

4 For conduct prior to May 20 of 2009, the term
5 "proceeds" means any property or any interest in property that
6 someone acquires or retains as profits resulting from the
7 commission of the specified unlawful activity. For conduct
8 after May 20, 2009, the term "proceeds" means any property
9 derived from or obtained or retained directly or indirectly
10 through some form of unlawful activity, including the gross
11 receipts of such activity. Under either definition, proceeds
12 can be any kind of property, not just money.

13 The term "specified unlawful activity" means any one
14 of a variety of offenses defined by the statute. In this case,
15 the government has alleged that the funds in question were the
16 proceeds of sex trafficking, sex trafficking of minors, and/or
17 interstate prostitution.

18 I instruct you that sex trafficking, sex trafficking
19 of minors, and interstate prostitution are specified unlawful
20 activity. However, it is for you to determine whether the
21 funds were the proceeds that of unlawful activity.

22 In that regard, I have already instructed you
23 concerning the elements of two of the specified unlawful
24 activities, sex trafficking and sex trafficking of minors.

25 You are advised that the elements of the third

Jury Charge

1 specified unlawful activity, interstate prostitution, are as
2 follows. First, that the defendant knowingly persuaded,
3 induced, enticed, or coerced a person to travel in interstate
4 or foreign commerce. Second, that the person traveled in
5 interstate or foreign commerce. And, third, that the defendant
6 acted with the intent that the person would engage in
7 prostitution.

8 As I have explained, interstate or foreign commerce
9 means simply the movement between one state and another or
10 between the United States and a foreign country. As I have
11 also explained, an act is done knowingly when it's done
12 voluntarily and intentionally and not because of accident,
13 mistake, or some other innocent reason.

14 The second element that the government must prove
15 beyond a reasonable doubt is that the person knew that the
16 property involved in the financial transaction was the proceeds
17 of some unlawful activity. The government must show that the
18 person knew that the property involved in the transaction
19 represented proceeds from some form of activity that
20 constitutes a felony under state, federal, or foreign law.

21 The government does not need to show that the person
22 knew that the proceeds were specifically from sex trafficking,
23 sex trafficking of a minor, or interstate prostitution, only
24 that he knew that the proceeds were derived from any illegal
25 activity that was a felony. I instruct you as a matter of law

Jury Charge

1 that sex trafficking, sex trafficking of a minor, and
2 interstate prostitution are felonies under federal law.

3 The government may prove the third element in either
4 of two ways. It may prove beyond a reasonable doubt that the
5 person acted with the intent to promote the carrying on of
6 specified unlawful activity, or, that the person knew that the
7 transaction was designed in whole or in part to conceal or
8 disguise the nature, location, source, ownership, control of
9 the proceeds of specified unlawful activity.

10 The government does not have to prove both parts of
11 this element for you to find that a person committed the crime
12 of money laundering. Proof beyond a reasonable doubt of one or
13 the other is enough, but all 12 of you must agree that the same
14 part of the element has been proven.

15 I previously instructed you as to what it is to act
16 knowingly and intentionally. I will not repeat that here.

17 Regarding the first part of the third element, if you
18 find that the defendant acted with the intention or deliberate
19 purpose of promoting, facilitating, or assisting in the
20 carrying on of specified unlawful activity, sex trafficking,
21 sex trafficking of minors, and/or interstate prostitution, then
22 the third element is satisfied. As I have previously
23 instructed you, interstate prostitution, sex trafficking, and
24 sex trafficking of minors all constitute specified unlawful
25 activity.

Jury Charge

1 With respect to the second part of the third element,
2 if you find that the evidence establishes beyond a reasonable
3 doubt that the defendant you are considering knew the purpose
4 of the particular transaction in issue and that he knew that
5 the transaction was designed either to conceal or to disguise
6 the true origin of the property in question, then this element
7 is satisfied. However, if you find that the defendant you are
8 considering knew of the transaction but didn't know that it was
9 designed either to conceal or to disguise the true origin of
10 the property in question, you must find that this second way to
11 prove the element has not been satisfied.

12 I remind you that the crime of conspiracy, an
13 agreement to violate the law, as charged in this count of the
14 indictment, is an independent offense. It's a separate -- it's
15 separate and distinct from the actual violation of any specific
16 law, such as the law prohibiting the crime of money laundering.

17 Accordingly, you may find the defendant you are
18 considering guilty of the offense charged in count 15, even if
19 you find that the crime of money laundering was never actually
20 committed.

21 Count 16 charges the defendants Jose Miguel
22 Melendez-Rojas, Jose Osvaldo Melendez-Rojas, Rosalio
23 Melendez-Rojas, and Francisco Melendez-Perez with distribution
24 of the proceeds of a prostitution business between 2006 and
25 July 2017. The statute prohibits the use of any facility in

Jury Charge

1 interstate or foreign commerce with intent to distribute the
2 proceeds of any unlawful activity.

3 To find a defendant guilty of this crime, you must
4 find that the four elements -- that the following elements have
5 been proven beyond a reasonable doubt. First, that the
6 defendant you are considering used or caused someone else to
7 use an interstate facility. Second, that this use of an
8 interstate facility was done with the intent to distribute the
9 proceeds of unlawful activity. That is, a business enterprise
10 involved in prostitution offenses; and, third, that after this
11 use of an interstate facility the defendant distributed the
12 proceeds of this same unlawful activity.

13 The first element requires you to find beyond a
14 reasonable doubt that the defendant you are considering used or
15 caused someone else to use an interstate or foreign facility.

16 The defendants Jose Miguel Melendez-Rojas, Jose Osvaldo
17 Melendez-Rojas, Rosalio Melendez-Rojas, and Francisco
18 Melendez-Perez have been charged with using and causing others
19 to use wire transfer services with the intent to distribute the
20 proceeds of a business enterprise involving prostitution, in
21 violation of the laws of the State of New York.

22 If the government has proven these facts beyond a
23 reasonable doubt, then you may find that it has satisfied the
24 first element. It does not matter whether the defendant knew
25 he was using an interstate facility, nor does it matter whether

Jury Charge

1 the defendant intended to use an interstate facility. All the
2 government must prove with respect to the first element is that
3 the defendant did in fact use an interstate facility or caused
4 another person to use an interstate facility.

5 The second element requires you to find beyond a
6 reasonable doubt that the interstate facility was used with the
7 intent to distribute the proceeds of an unlawful activity; that
8 is, a business enterprise involving prostitution. The
9 government does not have to prove that the sole purpose in the
10 use of the interstate facility was to distribute the proceeds
11 of a business enterprise involving prostitution. It is
12 sufficient that the government proves that one of the
13 defendant's reasons for the use of an interstate facility was
14 to distribute proceeds of a business enterprise involving
15 prostitution.

16 The government must prove that the defendant used an
17 interstate facility with the intent to distribute the proceeds
18 of an activity that the defendant knew was illegal. The
19 government does not have to prove the defendant knew that use
20 of an interstate facility was illegal.

21 However, the government must prove beyond a reasonable
22 doubt that the defendant knew that the activity he intended to
23 facilitate was illegal. Thus, if a defendant you are
24 considering used an interstate facility, intending to
25 distribute the proceeds of a business, but did not know the

Jury Charge

1 business was illegal or involved unlawful activity, then you
2 must find that defendant not guilty.

3 Defendants have been charged with using an interstate
4 facility to facilitate prostitution. The government must prove
5 beyond a reasonable doubt that the activities of the defendant
6 intended -- the activities that a defendant intended to
7 facilitate were in fact unlawful under New York State law.

8 Under that law, a person is guilty of a crime when
9 that person either: One, knowingly advances or profits from
10 prostitution by managing, supervising, controlling, or owning,
11 either alone or in association with others, a prostitution
12 business or enterprise involving prostitution activities by two
13 or more persons in prostitution; or, two, knowingly advances or
14 profits from prostitution of a person less than 19 years old.

15 So, in order to prove a defendant guilty of count 16,
16 the government must prove beyond a reasonable doubt that the
17 defendant you are considering distributed the proceeds of the
18 activity alleged in the indictment with the intent that each
19 element of this law be completed.

20 First, that in or about and between 2006 and 2017, in
21 the State of New York, the defendant you are considering
22 knowingly advanced or profited from prostitution of another
23 person. And, second, that the defendant managed, supervised,
24 controlled, or owned, either alone or in association with
25 others, a prostitution business or enterprise involving

Jury Charge

1 prostitution activity by two or more persons in prostitution,
2 or that the person whose prostitution the defendant advanced or
3 profited from was less than 19 years old.

4 Under New York law, prostitution means the act or
5 practice of engaging or agreeing or offering to engage in
6 sexual conduct with another person in return for a fee.

7 Also, under New York law, a person advances
8 prostitution when acting other than as a prostitute or as a
9 patron thereof. He knowingly causes or aids a person to commit
10 or engage in prostitution, procures or solicits patrons for
11 prostitution, provides persons or premises for prostitution
12 purposes, operates or assists in the operation of a house of
13 prostitution or a prostitution enterprise, or engages in any
14 other conduct designed to institute, aid, or facilitate an act
15 or enterprise of prostitution.

16 Under New York law a person profits from prostitution
17 when acting other than as a prostitute receiving compensation
18 for personally rendered prostitution services, he or she
19 accepts or receives money or other property pursuant to an
20 agreement or understanding with any person whereby he or she
21 participates or is to participate in the proceeds of
22 prostitution activity.

23 It is not a defense to this law that the defendant did
24 not know the age of the person whose prostitution the defendant
25 advanced or profited from, or that the defendant believed the

Jury Charge

1 age of such person to be 19 years or more.

2 The government must prove that the unlawful activity
3 for which the defendant used an interstate facility, that is,
4 prostitution, was a business enterprise. That is, the
5 government must prove that the unlawful activity was part of a
6 continuous course of criminal conduct and not simply an
7 isolated criminal incident.

8 If you find that the unlawful activity was an isolated
9 incident and was not part of an ongoing course of criminal
10 conduct, you must find the defendant not guilty. However, to
11 prove that the unlawful activity was a business enterprise, the
12 government does not have to show that the alleged illegal
13 activity was engaged in for a particular length of time, nor
14 must the government prove that such activity was defendant's
15 primary pursuit or occupation or that it actually turned a
16 profit.

17 What the government must prove beyond a reasonable
18 doubt is that the defendant engaged in a continuous course of
19 criminal conduct for the purpose of profit rather than casual,
20 sporadic, or isolated criminal activity.

21 The third element requires you to find beyond a
22 reasonable doubt that after this use of an interstate facility,
23 a defendant distributed the proceeds of this same unlawful
24 activity, that is, a business enterprise involving
25 prostitution. This act need not itself be unlawful. However,

Jury Charge

1 this act must come after the use of an interstate facility.

2 Any act that happened before the use of a facility cannot
3 satisfy this element.

4 You may also find the defendant you are considering
5 guilty of count 16 if the government has proven beyond a
6 reasonable doubt that he aided and abetted in the distribution
7 of proceeds of a prostitution business. In determining that,
8 you must follow the instructions on aiding and abetting.

9 Count 18 charges the Defendant Abel Romero-Melendez
10 with entering, being an alien who had previously been removed
11 from the United States, thereafter entering and was found in
12 the United States without the Attorney General or the Secretary
13 of the United States Department of Homeland Security having
14 expressly consented to such alien's applying for admission.

15 To find the defendant guilty of this crime, you must
16 find the following elements have been proved beyond a
17 reasonable doubt. First, that the defendant was an alien at
18 the time of the offense charged in the indictment. Second,
19 that prior to the time of the offense alleged in the indictment
20 the defendant had been deported from the United States. Third,
21 that the defendant was found in the United States. And,
22 fourth, that the defendant had not received the express
23 permission of the designated United States official to apply
24 for readmission.

25 The first element that the government must prove

Jury Charge

1 beyond a reasonable doubt is that the defendant was an alien
2 during the time charged, that is, between 2013 and July 2017.
3 I instruct you that the term "alien" means any person who is
4 not a citizen of the United States.

5 American citizenship may be acquired either by birth
6 within the United States or by means of a judicial proceeding
7 known as naturalization. I instruct you that a person born
8 outside the United States does not become a citizen by means of
9 a long stay in the United States.

10 The second element the government must prove beyond a
11 reasonable doubt is that prior to the time of the offense
12 charged the defendant had been deported from the United States.
13 Deportation means the removal from the United States by
14 immigration authorities. The element of deportation is
15 established if the government proves that the defendant was in
16 fact deported prior to the time of the offense alleged in the
17 indictment.

18 The third element the government must prove beyond a
19 reasonable doubt is that following defendant's deportation the
20 defendant was found in the United States on or about the date
21 charged in the indictment. To be found in the United States
22 means to be located in the United States following reentry.

23 While the government must prove beyond a reasonable
24 doubt that the defendant was found in the United States, as
25 charged in the indictment, the government does not have to

Jury Charge

1 prove that the defendant entered the United States. The
2 government need not prove that the defendant intended to
3 violate the law when he reentered the United States, nor does
4 the government have to prove that the defendant knew that he
5 was not entitled to be in this country.

6 A good-faith or mistaken belief on the part of the
7 defendant that he could lawfully reenter the United States is
8 not a defense and is irrelevant to your deliberations.

9 The fourth and final element of the charge in the
10 indictment that the government must prove is that the defendant
11 did not receive the express consent of the designated United
12 States official to reapply for admission to the United States
13 prior to attempting to return to the United States. Consent
14 from the designated United States official to enter -- to
15 reenter the United States must be obtained prior to the
16 deported alien's leaving from a place outside the United States
17 and attempting to enter the United States.

18 I instruct you that since March 2003, the United
19 States official designated to grant such consent was the
20 Secretary of the United States Department of Homeland Security.

21 The government need not prove that the defendant knew
22 that he was not entitled to reenter the country without the
23 permission of the designated United States official. A
24 good-faith or mistaken belief on the part of the defendant that
25 he could reenter the United States without first obtaining the

Jury Charge

1 express consent of the designated United States official is not
2 a defense.

3 I have now outlined for you the rules of law
4 applicable to the charges in this case and the processes by
5 which you should weigh the evidence and determine the facts.
6 In a few minutes, you will retire to the jury room for your
7 deliberations.

8 Traditionally, Juror number 1 acts as foreperson. In
9 order that your deliberations may proceed in an orderly
10 fashion, you must have a foreperson, but, of course, the
11 foreperson's vote is not entitled to any greater weight than
12 that of any other juror.

13 Your function, to reach a fair conclusion from the law
14 and the evidence, is an important one. Your verdict must be
15 unanimous. You must all agree.

16 When you are in the jury room, you may now discuss the
17 case. It is, in fact, the duty of each of you to consult with
18 your fellow jurors and to deliberate with a view toward
19 reaching agreement on a verdict, if you can do so without
20 violating your individual judgment and your conscience.

21 In the course of your deliberations, no one should
22 surrender conscientious beliefs of what the truth is and what
23 the weight and effect of the evidence is. Moreover, each of
24 you must decide the case for yourself and not merely acquiesce
25 in the conclusion of your fellow jurors.

Jury Charge

1 Nevertheless, I do ask you to examine the issues and
2 evidence before you with candor and frankness and a proper
3 deference to and regard for the opinions of one another.

4 Remember that the parties and the court are relying
5 upon you to give full and conscientious deliberation and
6 consideration to the issues and evidence before you. By so
7 doing, you carry out to the fullest your oaths as jurors, well
8 and truly to try the issues of this case and a true verdict
9 render.

10 During your deliberations, you must not communicate
11 with or provide any information about this case to anyone other
12 than your fellow jurors, by any means. You may not use any
13 electronic device or media, such as telephone, cell phone,
14 smart phone, iPhone, Android, computer, internet, text, instant
15 message, chat room, blog, website such as Google, Facebook,
16 MySpace, LinkedIn, YouTube, Twitter, to communicate with anyone
17 any information about the case or to conduct any research about
18 this case until I accept your verdict.

19 You may not consult dictionaries or reference
20 materials or use any other electronic tool to obtain
21 information about the case or to help you decide the case.

22 In short, do not try to find any information about
23 this case from any source outside what has been presented here
24 at trial until I have accepted your verdict. To do so -- to do
25 otherwise would violate your oaths as jurors.

Jury Charge

1 If it becomes necessary during your deliberations to
2 communicate with me for any reason, simply send me a note
3 signed by your foreperson or by one or more members of the
4 jury. No member of the jury should ever attempt to communicate
5 with me or with any court personnel by any means other than in
6 writing. I will not communicate with any member of the jury on
7 any subject touching on the merits of this case, other than in
8 writing or orally here in open court.

9 If you wish to have some part of the testimony
10 repeated, or to see any exhibits, you may make that request.
11 If you request to see all or some of the exhibits, we will send
12 them into the jury room for you and make them available to you
13 here in open court.

14 If you request to hear certain testimony, or to see
15 the trial transcript regarding any matter, I will call you into
16 the court and have the court reporter read those portions of
17 the testimony to you, or send responsive portions of the trial
18 transcript into the jury room.

19 You can have any of the testimony read back to you or
20 made available to you in transcript form. I suggest, however,
21 that you be specific in your requests so as to avoid hearing
22 testimony or receiving portions of the trial transcript that
23 you do not need to assist you in your deliberations.

24 If in the course of your deliberations you wish for
25 help as to the law, or if you wish to hear any further

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Jury Charge

1 explanation as to the law, you may send me a note telling me
2 what you would like.

3 Bear in mind, also, you are not to reveal to any
4 person, not even in open court, how the jury stands numerically
5 or otherwise, on the question of whether a defendant is guilty
6 or not guilty until after you have reached a unanimous verdict.
7 Any verdict you reach must be unanimous.

8 When you have reached a verdict, simply send me a
9 note, signed by your foreperson, that you have reached a
10 verdict. Do not indicate in the note what the verdict is.

11 The verdict form I have prepared indicates the charge
12 as listed in the indictment. Although I will provide each of
13 you with a copy of the verdict form, please recall that your
14 unanimous verdict must be recorded on the foreperson's verdict
15 form.

16 I will also provide each of you with a copy of these
17 instructions. Please remember that you must follow these
18 instructions as a whole and should not rely on any one portion
19 and disregard the remaining portions.

20 Before asking you to begin your deliberations, let me
21 consult with counsel to ensure that I haven't neglected
22 anything.

23 (Continued on the next page.)

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Sidebar

1 (Sidebar conference.)

2 THE COURT: Anything?

3 MS. KELLMAN: No.

4 MR. GOLD: No, judge.

5 MR. GOLUB: No.

6 MS. HAJJAR: Your Honor, I think Your Honor read the
7 prior inconsistent statements portion of the charge.

8 THE COURT: I know. I don't really think it belongs,
9 but it was a gift.

10 MS. KELLMAN: It was a gift. We appreciate that.

11 MR. GOLD: Judge, are you sending in a copy of the
12 written?

13 THE COURT: Yes.

14 MR. GOLD: Okay.

15 THE COURT: Copies for everybody.

16 MR. GOLUB: That's fine.

17 (End of sidebar conference.)

18 (Continued on the next page.)

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USA v. Melendez-Rojas

1 (In open court.)

2 THE COURT: Dennis, would you please swear the
3 marshal.

4 THE CLERK: Raise your right hand.

5 (The marshal was sworn.)

6 THE COURT: I am now going to ask the Jurors numbers 1
7 through 12 to retire for deliberations in the case, and I'm
8 going to ask the three alternates to wait.

9 (The jury retired to commence deliberations at
10 4:05 p.m.)

11 (Alternates jurors remain in courtroom.)

12 THE COURT: I understand that one of the three
13 alternates -- and I'm not sure which alternate it is -- is not
14 going to be able to deliberate tonight. Who is that? Was
15 there anyone who can't deliberate tonight? Okay.

16 Alternate number 3, I'm going to excuse you and thank
17 you very much. Dennis will take you out and get your things
18 for you.

19 (Alternate Juror 3 exits courtroom.)

20 THE COURT: Alternates numbers 1 and 2, I'm going to
21 follow a procedure -- again, because of the virus, and I'm not
22 sure whether or not there will be a verdict this evening --
23 whereby I ask you to stand by and be prepared to replace a
24 juror, should the case go over until Monday and one of the
25 jurors not return.

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1 This means you are still bound by the requirement that
2 you not discuss the case with anyone. All right? I will ask
3 you -- Dennis will let you know one way or the other whether
4 it's going to be necessary for you to come back on Monday
5 morning at 9:30, if the jury doesn't reach a verdict tonight.
6 I am going to ask you to come back at 9:30 tomorrow morning, if
7 he lets you know.

8 THE CLERK: Monday morning.

9 THE COURT: Oh, Monday morning. Sorry. Not tomorrow.
10 Monday morning. Is that clear?

11 ALTERNATE JUROR: Perfect.

12 THE COURT: Okay. That's fine.

13 And should I ask you to become a member of the jury, I
14 will instruct everybody on how to proceed at that time.

15 ALTERNATE JUROR: Okay.

16 THE COURT: All right.

17 ALTERNATE JUROR: All right.

18 THE COURT: Okay. So I guess I can say to all of you,
19 have a good weekend. And, Alternates 1 and 2, we will let you
20 know whether we need you on Monday morning. Okay?

21 ALTERNATE JUROR: Yes.

22 ALTERNATE JUROR: Yeah.

23 THE CLERK: All rise.

24 (Alternate Jurors 1 and 2 exit courtroom.)

25 THE COURT: Okay. Would you all just stay around the

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1 floor.

2 MS. KELLMAN: I didn't hear you.

3 THE COURT: Would you just stay on the floor?

4 MR. GOLUB: Sure.

5 MS. KELLMAN: No problem.

6 (Pause.)

7 MS. KELLMAN: The marshals are asking whether or not
8 the defendants should go downstairs or stay back here.

9 THE COURT: I think you might as well bring the
10 defendants downstairs and bring them back on notice.

11 THE MARSHAL: Okay.

12 (Court in recess awaiting the verdict of the jury.)

13 (In open court.)

14 (Defendants not present; jury not present.)

15 (Court Exhibits 1, 2, and 3 so marked.)

16 THE COURT: We received Court Exhibit number 1 at 4:10
17 today, asking to step outside for a smoke. There were four of
18 them, okay, which has been taken care of.

19 MS. KELLMAN: Oh, okay. Because I was going to say
20 otherwise they would be freaking out.

21 THE COURT: Court Exhibit number 2 was received at
22 5:30 -- at 5:00, excuse me -- requesting, one, wire transfer
23 charts; two, telephone record charts; three, border crossing
24 attempts and the charts. And I understand all of that was sent
25 into them.

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1 MS. KELLMAN: Yes, judge.

2 THE COURT: Four, pictures and names of defendants;
3 five, pictures and names of witnesses.

4 MS. KELLMAN: Yes.

5 THE COURT: And we have now received at 7:08 Court
6 Exhibit 3, Delia's -- quote, Delia's transcript regarding
7 Miguel, direct examination, close quote, signed by Juror
8 number 1.

9 Actually, if there is no issue, maybe I don't need the
10 defendants.

11 MS. KELLMAN: Yeah, if there is no issue, we won't
12 need them.

13 MR GOLUB: What about a meal?

14 MS. KELLMAN: Yeah. Did you ask them about food? Did
15 you ask the marshals if they have been fed, if the defendants
16 have been fed?

17 THE COURT: It didn't occur to me that they weren't.

18 MS. KELLMAN: Oh, it would be stunning if they had
19 food down there for them.

20 (Court in recess awaiting the verdict of the jury.)

21 (In open court.)

22 (Court Exhibits 4 and 5 so marked.)

23 THE COURT: I simply want to put on the record that we
24 received, at 9:15 Court Exhibit number 5. It reads, The jury
25 is ready to deliver a verdict, signed by Juror number 1.

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1 We had also received Court Exhibit number 4 from the
2 jury at 8:10 p.m., requesting Daisy's direct examination
3 transcript concerning Rosalio, and Daisy and Fabian's wire
4 transfer records, signed by Juror number 1; and that had been
5 sent into the jury.

6 (Pause.)

7 (Defendants present.)

8 (Through the interpreter.)

9 THE COURT: Is everyone accounted for? Can I bring in
10 the jury?

11 MS. KELLMAN: Yes.

12 (Pause.)

13 (Jury enters.)

14 THE COURT: Please be seated, ladies and gentlemen.

15 Obviously, we have received all of your notes,
16 including your most recent note that you are ready to deliver
17 the verdict.

18 Let me just ask you generally first: Is your verdict
19 unanimous?

20 THE FOREPERSON: Yes.

21 (Jurors responded yes.)

22 THE COURT: Okay. Would you give me the foreperson's
23 verdict form.

24 (Clerk received the verdict form.)

25 THE COURT: All right. I'm going to return the

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1 verdict form to your foreperson. I'm going to ask that the
2 foreperson -- I see, signed on page 1. That's fine.

3 I'm going to ask you to return the verdict, but I
4 would like all of you, please, to listen to the answers to the
5 questions, because after the verdict is returned I'm going to
6 poll the jury and ask you whether or not that was your verdict.
7 Okay?

8 So as to count one, alien smuggling conspiracy, as to
9 Defendant Jose Miguel Melendez-Rojas, guilty or not guilty?

10 THE FOREPERSON: Guilty.

11 THE COURT: Did he act for the purpose of financial
12 gain?

13 THE FOREPERSON: Yes.

14 THE COURT: As to the Defendant Jose Osvaldo
15 Melendez-Rojas, guilty or not guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: Did he act for the purpose of private
18 financial gain?

19 THE FOREPERSON: Yes.

20 THE COURT: As to Defendant Rosario Melendez-Rojas,
21 guilty or not guilty?

22 THE FOREPERSON: Guilty.

23 THE COURT: Did he act for the purpose of personal
24 financial gain?

25 THE FOREPERSON: Yes.

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1 THE COURT: As to Defendant Francisco Melendez-Perez,
2 guilty or not guilty?

3 THE FOREPERSON: Guilty.

4 THE COURT: And did you find that he acted for the
5 purpose of private financial gain?

6 THE FOREPERSON: Yes.

7 THE COURT: As to Defendant Abel Romero-Melendez,
8 guilty or not guilty?

9 THE FOREPERSON: Guilty.

10 THE COURT: Did you find that he acted for the purpose
11 of private financial gain?

12 THE FOREPERSON: Yes.

13 THE COURT: Turning to count two, conspiracy to
14 transport minors to engage in prostitution, as to Defendant
15 Jose Miguel Melendez-Rojas, guilty or not guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: As to Defendant Jose Osvaldo
18 Melendez-Rojas, guilty or not guilty?

19 THE FOREPERSON: Guilty.

20 THE COURT: As to Defendant Rosalio Melendez-Rojas,
21 guilty or not guilty?

22 THE FOREPERSON: Guilty.

23 THE COURT: As to Defendant Francisco Melendez-Perez,
24 guilty or not guilty?

25 THE FOREPERSON: Guilty.

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1 THE COURT: As to Defendant Abel Romero-Melendez,
2 guilty or not guilty?

3 THE FOREPERSON: Guilty.

4 THE COURT: Turning to count three, sex trafficking
5 conspiracy, as to Defendant Jose Miguel Melendez-Rojas, guilty
6 or not guilty?

7 THE FOREPERSON: Guilty.

8 THE COURT: As to Defendant Jose Osvaldo
9 Melendez-Rojas, guilty or not guilty?

10 THE FOREPERSON: Guilty.

11 THE COURT: As to Defendant Rosalio Melendez-Rojas,
12 guilty or not guilty?

13 THE FOREPERSON: Guilty.

14 THE COURT: As to Defendant Francisco Melendez-Perez,
15 guilty or not guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: As to Defendant Abel Romero-Melendez,
18 guilty or not guilty?

19 THE FOREPERSON: Guilty.

20 THE COURT: Turning to count four, the sex trafficking
21 of Diana, as to Defendant Jose Miguel Melendez-Rojas, guilty or
22 not guilty?

23 THE FOREPERSON: Guilty.

24 THE COURT: Do you find that the defendant knew that
25 means of force, fraud, or coercion would be used to cause Diana

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1 to engage in one more commercial sex acts?

2 THE FOREPERSON: Yes.

3 THE COURT: Do you find that defendant knew that Diana
4 had not attained the age of 18 years and would be caused to
5 engage in one more commercial sex acts?

6 THE FOREPERSON: Yes.

7 THE COURT: As to Defendant Rosalio Melendez-Rojas,
8 guilty or not guilty?

9 THE FOREPERSON: Guilty.

10 THE COURT: Do you find that the defendant knew that
11 means of force, violence, or coercion would be used to cause
12 Diana to engage in one or more commercial sex acts?

13 THE FOREPERSON: Yes.

14 THE COURT: Do you find defendant knew that Diana had
15 not attained the age of 18 years and would be caused to engage
16 in one or more commercial sex acts?

17 THE FOREPERSON: Yes.

18 THE COURT: As to Defendant Abel Romero-Melendez,
19 guilty or not guilty?

20 THE FOREPERSON: Guilty.

21 THE COURT: Do you find that the defendant knew that
22 means of force, fraud, or coercion would be used to cause Diana
23 to engage in one or more commercial sex acts?

24 THE FOREPERSON: Yes.

25 THE COURT: Do you find that the defendant knew that

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1 Diana had not attained the age of 18 years and would be caused
2 to engage in one or more commercial sex acts?

3 THE FOREPERSON: Yes.

4 THE COURT: As to Defendant Jose Miguel
5 Melendez-Rojas, guilty or not guilty?

6 THE FOREPERSON: Guilty.

7 THE COURT: As to Defendant Jose Osvaldo
8 Melendez-Rojas, guilty or not guilty?

9 THE FOREPERSON: Guilty.

10 THE COURT: As to Defendant Rosario Melendez-Rojas,
11 guilty or not guilty?

12 THE FOREPERSON: Guilty.

13 THE COURT: Turning to count six, the sex trafficking
14 of Fabiola, as to Defendant Jose Osvaldo Melendez-Rojas, guilty
15 or not guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: As to Defendant Rosario Melendez-Rojas,
18 guilty or not guilty?

19 THE FOREPERSON: Guilty.

20 THE COURT: As to count seven, alien smuggling of
21 Fabiola, as to Defendant Jose Osvaldo Melendez-Rojas, guilty or
22 not guilty?

23 THE FOREPERSON: Guilty.

24 THE COURT: Do you find that the defendant acted for
25 the purpose of private financial gain?

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1 THE FOREPERSON: Yes.

2 THE COURT: As to Defendant Rosalio Melendez-Rojas,
3 guilty or not guilty?

4 THE FOREPERSON: Guilty.

5 THE COURT: Do you find that the defendant acted for
6 the purpose of private financial gain?

7 THE FOREPERSON: Yes.

8 THE COURT: Turning to count eight, sex trafficking of
9 Maria Rosalba, as to Defendant Jose Osvaldo Melendez-Rojas,
10 guilty or not guilty?

11 THE FOREPERSON: Guilty.

12 Q As to Defendant Francisco Melendez-Perez, guilty or not
13 guilty?

14 THE FOREPERSON: Guilty.

15 THE COURT: Turning to count nine, alien smuggling of
16 Maria Rosalba, as to Defendant Jose Osvaldo Melendez-Rojas,
17 guilty or not guilty?

18 THE FOREPERSON: Guilty.

19 THE COURT: Did you find that the defendant acted for
20 the purpose of private financial gain?

21 THE FOREPERSON: Yes.

22 THE COURT: As to Defendant Francisco Melendez-Perez,
23 guilty or not guilty?

24 THE FOREPERSON: Guilty.

25 THE COURT: Do you find that the defendant acted for

USA v. Melendez-Rojas

1 the purpose of private financial gain?

2 THE FOREPERSON: Yes.

3 THE COURT: As to Defendant Jose Miguel
4 Melendez-Rojas, guilty or not guilty?

5 THE FOREPERSON: Guilty.

6 THE COURT: Do you find that the defendant knew or
7 recklessly disregarded that means of force, fraud, or coercion
8 would be used to cause Delia to engage in one or more
9 commercial sex acts?

10 THE FOREPERSON: Yes.

11 THE COURT: Do you find the defendant knew or
12 recklessly disregarded that Delia had not attained the age of
13 18 years and would be caused to engage in one or more
14 commercial sex acts?

15 THE FOREPERSON: Yes.

16 THE COURT: As to Defendant Jose Osvaldo
17 Melendez-Rojas, guilty or not guilty?

18 THE FOREPERSON: Guilty.

19 THE COURT: Do you find that the defendant knew or
20 recklessly disregarded that means of force, fraud, or coercion
21 would be used to cause Delia to engage in one or more
22 commercial sex acts?

23 THE FOREPERSON: Yes.

24 THE COURT: Do you find that the defendant knew or
25 recklessly disregarded that Delia had not attained the age of

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1 18 years and would be caused to engage in one or more
2 commercial sex acts?

3 THE FOREPERSON: Yes.

4 THE COURT: As to Defendant Rosalio Melendez-Rojas,
5 guilty or not guilty?

6 THE FOREPERSON: Guilty.

7 THE COURT: Do you find that the defendant knew or
8 recklessly disregarded that means of force, fraud, or coercion
9 would be used to cause Delia to engage in one more commercial
10 sex acts?

11 THE FOREPERSON: Yes.

12 THE COURT: Do you find that the defendant knew or
13 recklessly disregarded that Delia had not attained the age of
14 18 years and would be caused to engage in one or more
15 commercial sex acts?

16 THE FOREPERSON: Yes.

17 THE COURT: As to Defendant Francisco Melendez-Perez,
18 guilty or not guilty?

19 THE FOREPERSON: Guilty.

20 THE COURT: Do you find that the defendant knew or
21 recklessly disregarded that means of force, fraud, or coercion
22 would be used to cause Delia to engage in one or more
23 commercial sex acts?

24 THE FOREPERSON: Yes.

25 THE COURT: Do you find that the defendant knew or

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1 recklessly disregarded that Delia had not attained the age of
2 18 years and would be caused to engage in one or more
3 commercial sex acts?

4 THE FOREPERSON: Yes.

5 THE COURT: Turning to count 11, the transportation of
6 a minor to engage in prostitution, as to Delia, as to Defendant
7 Jose Miguel Melendez-Rojas, guilty or not guilty?

8 THE FOREPERSON: Guilty.

9 THE COURT: Jose Osvaldo Melendez-Rojas, guilty or not
10 guilty?

11 THE FOREPERSON: Guilty.

12 THE COURT: As to Rosalio Melendez-Rojas, guilty or
13 not guilty?

14 THE FOREPERSON: Guilty.

15 THE COURT: As to Francisco Melendez-Perez, guilty or
16 not guilty?

17 THE FOREPERSON: Guilty.

18 THE COURT: Turning to count 12, alien smuggling of
19 Delia, as to Defendant Jose Miguel Melendez-Rojas, guilty or
20 not guilty?

21 THE FOREPERSON: Guilty.

22 THE COURT: Did the defendant act for the purpose of
23 private financial gain?

24 THE FOREPERSON: Yes.

25 THE COURT: As to Jose Osvaldo Melendez-Rojas, guilty

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1 or not guilty?

2 THE FOREPERSON: Guilty.

3 THE COURT: Do you find that the defendant acted for
4 the purpose of private financial gain?

5 THE FOREPERSON: Yes.

6 THE COURT: As to Defendant Rosalio Melendez-Rojas,
7 guilty or not guilty?

8 THE FOREPERSON: Guilty.

9 THE COURT: Do you find the defendant acted for the
10 purpose of private financial gain?

11 THE FOREPERSON: Yes.

12 THE COURT: As to the Defendant Francisco
13 Melendez-Perez, guilty or not guilty?

14 THE FOREPERSON: Guilty.

15 THE COURT: Do you find that the defendant acted for
16 the purpose of private financial gain?

17 THE FOREPERSON: Yes.

18 THE COURT: Count 14, alien smuggling of Daisy, as to
19 Defendant Rosalio Melendez-Rojas, guilty or not guilty?

20 THE FOREPERSON: Guilty.

21 THE COURT: Do you find that the defendant acted for
22 the purpose of private financial gain?

23 THE FOREPERSON: Yes.

24 THE COURT: Count 15, the money laundering conspiracy,
25 as to Defendant Jose Miguel Melendez-Rojas, guilty or not

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1 guilty?

2 THE FOREPERSON: Guilty.

3 THE COURT: As to Defendant Jose Osvaldo
4 Melendez-Rojas, guilty or not guilty?

5 THE FOREPERSON: Guilty.

6 THE COURT: As to Defendant Rosalio Melendez-Rojas,
7 guilty or not guilty?

8 THE FOREPERSON: Guilty.

9 THE COURT: As to Defendant Francisco Melendez-Perez,
10 guilty or not guilty?

11 THE FOREPERSON: Guilty.

12 THE COURT: Count 16, the distribution of proceeds of
13 a prostitution business, as to Defendant Jose Miguel
14 Melendez-Rojas, guilty or not guilty?

15 THE FOREPERSON: Guilty.

16 THE COURT: As to Defendant Jose Osvaldo
17 Melendez-Rojas, guilty or not guilty?

18 THE FOREPERSON: Guilty.

19 THE COURT: As to Defendant Rosalio Melendez-Rojas,
20 guilty or not guilty?

21 THE FOREPERSON: Guilty.

22 THE COURT: As to Defendant Francisco Melendez-Perez,
23 guilty or not guilty?

24 THE FOREPERSON: Guilty.

25 THE COURT: Finally, count 18, illegal reentry, as to

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1 Defendant Abel Romero-Melendez, guilty or not guilty?

2 THE FOREPERSON: Guilty.

3 THE COURT: Juror number 1, is that your verdict?

4 JUROR: Yes.

5 THE COURT: Juror number 2?

6 JUROR: Yes.

7 THE COURT: Juror number 3?

8 JUROR: Yes.

9 THE COURT: 4?

10 JUROR: Yes.

11 THE COURT: 5?

12 JUROR: Yes.

13 THE COURT: 6?

14 JUROR: Yes.

15 THE COURT: 7?

16 JUROR: Yes, yes.

17 THE COURT: Okay, I'm sorry. 8?

18 JUROR: Yes, Your Honor.

19 THE COURT: 9?

20 JUROR: Yes.

21 THE COURT: 10?

22 JUROR: Yes.

23 THE COURT: 11?

24 JUROR: Yes.

25 THE COURT: 12?

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1 JUROR: Yes.

2 THE COURT: Ladies and gentlemen, I cannot begin to
3 thank you for your extraordinary jury service in this case. It
4 has been very intense. I have never tried a case using longer
5 trial days than I did in this case.

6 Your willingness to stay tonight, everything that you
7 have done, you paid attention to every witness and all the
8 documents, every note that you sent in, you know, was clearly
9 requesting relevant, important information. You worked your
10 way through and made determinations.

11 You have so amazingly done your duty as jurors, I, we,
12 all thank you very much.

13 Have a wonderful weekend and be well. Thank you so
14 much.

15 That I will take. Thank you.

16 (Jury exits at 9:39 p.m.)

17 THE COURT: I will mark this as Court Exhibit
18 number 6.

19 (Court Exhibit 6 so marked.)

20 THE COURT: Because Dennis -- you can sit. Please be
21 seated.

22 Because Dennis is not here, I think the best way to
23 handle the sentencing dates is to say that he will let you know
24 when the sentencing date will be. It's usually a few months
25 out, to give plenty of time for the presentence report to be

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1 prepared.

2 MS. KELLMAN: Judge, can we ask the court to deem the
3 Rule 29(c) motions made as of today, and we can set a briefing
4 schedule, at least as to me?

5 THE COURT: The only thing about that is that we now
6 have this completely in our heads. So I can deal with any
7 motions that you --

8 MS. KELLMAN: But, usually, I mean my practice is
9 usually to make a motion and then brief it, if there is
10 something to brief.

11 We have the court reporter. So if the court would
12 deem the motion made, and then we will supplement with papers.

13 THE COURT: All I'm saying if you don't brief this for
14 three weeks or four weeks, I'm going to have forgotten the
15 case.

16 So what I would like to do is I will deem it made
17 today; but I would like to have a briefing schedule, if there
18 are going to be motions, that's a relatively short period of
19 time from now.

20 MS. KELLMAN: Perhaps we can work something out with
21 the government on Monday and get back to the court.

22 THE COURT: Okay. But I want to get it completely
23 briefed, say within the next ten days to two weeks. Okay?

24 MS. KELLMAN: Okay.

25 THE COURT: I'm sorry to do that to you, but it's just

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1 that I forgot the facts.

2 MS. KELLMAN: We attach the transcripts.

3 THE COURT: I'm sure you will, but I think it's easier
4 to get it out of the way closer to trial rather than waiting
5 closer to sentence.

6 MS. KELLMAN: Right.

7 THE COURT: So, yes, you can do that, but I would
8 appreciate it.

9 MS. KELLMAN: They are deemed made?

10 THE COURT: Yes, they are deemed made.

11 MR GOLUB: Thank you, judge.

12 MR. DUNN: Thank you.

13 MS. KELLMAN: Thank you, judge.

14 THE COURT: Okay. Have a good night.

15 (Trial concluded at 9:42 p.m.)

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I N D E X

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9

COURT EXHIBITS

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12	4, 5	1818
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